SELECTIONS

FROM THE

# Records of the Government of India,

HOME, REVENUE, AND AGRICULTURAL DEPARTMENT.

No. CLXX.

# PAPERS

ON THE

## WORKING OF THE LAW CONTAINED IN CHAPTER XXXVIII OF THE CRIMINAL PROCEDURE CODE UNDER WHICH PERSONS ARE REQUIRED TO FURNISH SECURITY FOR THEIR GOOD BEHAVIOUR.

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# PAPERS

ON

# THE WORKING OF THE LAW REQUIRING PERSONS TO FURNISH SECURITY FOR THEIR GOOD BEHAVIOUR.

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Extract from the Proceedings of the Government of India in the Home, Revenue and Agricultural Department (Judicial),—No. $\frac{1}{15\text{-}25}$, dated 8th January 1880.

**Read** the under-mentioned papers:—

Letter from the Government of Bengal, No. 416, dated 23rd January 1878, and enclosures.

Home Department Circular, Nos. 3—219 to 227, dated 16th February 1878.

Letter from the Government of Madras, No. 493, dated 8th March 1878, and enclosures.

" " Bombay, No. 2287, dated 10th April 1878, and enclosures.

" " N.-W. Provinces and Oudh. No. 1198A, dated 16th August 1878, and enclosures.

" " " " No. 1366A, dated 14th September 1878, and enclosures.

" " Punjab, No. 1087C, dated 20th October 1879, and enclosures.

" Chief Commissioner, Central Provinces, No. D—42, dated 5th March 1878, and enclosures.

" " " " No. G—44, dated 21st March 1878.

" " British Burma, No. 1072—160 dated 25th July 1878, and enclosures.

" " Mysore, No. 2648—23J, dated 6th July 1878, and enclosures.

" " Assam, No. 1011, dated 27th May 1878, and enclosures.

" Resident at Hyderabad, No. 3, dated 10th April 1878.

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Resolution.—In January 1878 the Government of Bengal represented to the Government of India the advisability of inserting in any future amendment of the Code of Criminal Procedure (Act X of 1872) a provision legalising an appeal to the Sessions Court or to the High Court from persons required to furnish security for good behaviour. His Honour the Lieutenant-Governor pointed out that, whereas under section 409 of the old Criminal Procedure Code (Act XXV of 1861), any person required by the Magistrate of a District or other officer exercising the powers of a Magistrate to give security for good behaviour might appeal to the Court of Sessions, the present Code (section 267, Act X of 1872)

provides for an appeal only from such an order, if passed by a Magistrate of the first class, to the Magistrate of a District, while under section 286 there is no appeal against an order of the Magistrate of the District in such cases. It was stated that instances had come to the notice of the Local Government, in which the powers conferred on District Magistrates under chapter 38 of Act X of 1872 had been greatly abused, and in order to prevent the recurrence of such abuse the restoration of the provision for appeals was recommended.

2. Before taking action upon this representation, the Government of India considered it desirable to ascertain how the law regarding security for good behaviour had worked in other Provinces; and the several Local Governments and Administrations were requested in Home Department Circular dated the 16th February 1878 to submit reports on the subject. Replies to this circular have now been received and are briefly summarised below :—

*Madras.*—The Madras Government do not consider that the law has been harshly worked, and deprecate any change.

*Bombay.*—The Bombay Government state that the experience of that Presidency does not show any necessity for altering the present law.

*North-Western Provinces and Oudh.*—His Honour the Lieutenant-Governor considers that no necessity has arisen in the North-Western Provinces and Oudh for amendment of chapter 38 of the Criminal Procedure Code, and deprecates its alteration in the manner suggested by the Bengal Government. His Honour points out that the Magistrate of the District from his local knowledge, as well as in most cases from personal investigation, is in a better position to form a proper judgment than an appellate tribunal, and that in the event of a reversal of a decision in cases of this nature "the Magistrate's action would be often paralysed to an extent prohibitive of the maintenance of security and good order in large cities." The Lieutenant-Governor adds that, in his opinion, any abuse of the law may "be remedied in a different and more appropriate direction than in a grant of an appeal to the Judge or to the High Court by requiring the Commissioner to examine periodically the cases in which the Magistrate has demanded security."

*Punjab.*—The Punjab Government do not consider that there would be any advantage in modifying the law so as to permit an appeal to the Sessions Court. His Honour the Lieutenant-Governor does not believe that there has been in

the Punjab anything to show that the present system requires amendment, and deprecates a change which would destroy the finality of the order passed in such cases by the Magistrate of the District and thereby tend to weaken his hands. The attention of Commissioners of Divisions has been directed to the subject in order that careful supervision may be exercised over the working of the law.

*Central Provinces.*—The Chief Commissioner states his opinion that cases in which hardship and suffering have been caused to innocent persons have been of very rare occurrence in the Central Provinces. It is added that careful instructions have been issued for the guidance of District Magistrates in their proceedings. The Judicial Commissioner considers that the administration of the law is not in most districts marked by a dangerous degree of vigour.

*British Burma.*—The Chief Commissioner states that the provisions of the law are more frequently applied in British Burma than in other Provinces. He explains that this is due to the fact that the population of Burma is more criminal than elsewhere. The prevailing opinion in the Province, however, is that the law has not been capriciously worked, and that the powers conferred on the Magistrates have not been abused. At the same time the Chief Commissioner would allow an appeal from the order of the Magistrate, although he would deprecate any material restriction of the power of the Magistrates to take security.

*Assam.*—The late Chief Commissioner (Colonel Keatinge) expressed his opinion that it would be inexpedient to permit appeals from the decisions of the District Magistrates; and that the safeguard provided in the existing law, which allows the High Court as a court of revision to call for the record and quash the proceedings of a lower court, is sufficient.

*Mysore.*—The Chief Commissioner concurs with the Judicial Commissioner that, although the provisions of chapter 38 of Act X of 1872 have not been worked to any great extent and have not been used oppressively by the police, an appeal should nevertheless be allowed to the Sessions Judge from all orders passed by the District Magistrate.

*Hyderabad.*—The Judicial Commissioner, Commissioner, and Inspector General of Police are unanimously of opinion that the law has not been abused in Berar, and the Resident sees no reason to think otherwise; but to prevent any tendency to abuse, the Resident expresses himself in favour of permitting a right of appeal to the Sessions Court.

3. From the above *résumé* it is clear that the majority of opinions are opposed to the introduction into the Code of Criminal Procedure of the right of appeal from orders passed by Magistrates of Districts under chapter 38 of the Criminal Procedure Code. The table given in the foot-note* shows that the degree of activity with which proceedings are taken under this chapter differs very considerably in different Provinces. It is difficult, after reading the reports now before the Government of India, to resist the impression that the bad livelihood sections of the Code are overworked in the Punjab and Burma, that they were formerly overworked in Bengal, and that they are left too much a dead letter in the south of India. But the existence of this diversity of practice does not, in the opinion of the Governor General in Council, afford any sufficient reason for altering the law. It has been suggested by some of the Local Governments that the proper remedy for any possible abuse is to be found in the exercise of careful supervision and, if necessary, in periodical scrutiny of cases of the nature in question by the superior executive officers. In this view His Excellency in Council entirely concurs. In Bengal this remedy for abuse of the law has been successfully applied. During the year after the attention of Magistrates had been drawn to the matter by the Lieutenant-Governor, the number of prosecutions for bad livelihood fell from 5,062 in the year 1876 to 1,276 in the year 1878. Careful administrative supervision on the part of the Executive Government and of the superior administrative officers, such as Commissioners of Divisions where such officers exist, can be made more effective in checking an abuse of the law, where such abuse exists, than

| * Name of Province. | Total population. | Number of persons annually arrested for bad livelihood. | Number of persons convicted, *i. e.*, ordered to find security, or imprisoned in default thereof. |
|---|---|---|---|
| | Millions. | | |
| Madras | 31 | 155 | 87 |
| Bombay | 16 | Not given. | 165 |
| Bengal | 62 | 5,062 | 3,618 |
| North-Western Provinces | 31 | 2,122 | 1,957 |
| Oudh | 11 | 734 | 537 |
| Central Provinces | 8 | 474 | 74 |
| Punjab | 17 | 6,887 | 5,617 |
| Burma | 2¾ | Not given. | 1,184 |
| Mysore | 5 | Ditto. | 232 |
| Berar | 2¾ | 92 | 59 |

the legalisation of the right of appeal to the Sessions Court. The High Courts, moreover, under the existing law possess full power of revision, which power, although no direct appeal is allowed, can, where necessary, be exercised. Under these circumstances the Governor General in Council will not at present propose any change in the law, but His Excellency in Council has no doubt that the matter will continue to engage the careful attention of the several Local Governments and Administrations, and that where executive orders may be needed to prevent the possibility of any abuse of the powers conferred by chapter 38 of the Criminal Procedure Code, such orders will be promptly issued and carefully obeyed.

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ORDER.—Ordered, that a copy of this Resolution be forwarded to Local Governments and Administrations for information, and that the Resolution and connected papers be printed as a selection from the Records of the Government of India.

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From H. A. COCKERELL, Esq., Officiating Secretary to the Government of Bengal, Judicial, Political and Appointment Departments, to the Officiating Secretary to the Government of India, Home Department,—No. 416, dated 23rd January, 1878.

UNDER section 409 of the old Criminal Procedure Code, Act XXV of 1861, any person required by the Magistrate of a District, or other officer exercising the powers of a Magistrate, to give security for good behaviour, might appeal to the court of session to which such Magistrate was subordinate. The law of appeal in these cases was, however, materially altered in the new Code of Criminal Procedure, Act X of 1872. Under section 267 of this Act any person required by a Magistrate of the first class to give security for good behaviour may appeal to the Magistrate of the District, but under section 286 there is no appeal against an order of the Magistrate of the District in such cases. Many instances have come to the notice of the Lieutenant-Governor in which the powers conferred on District Magistrates under chapter 38 of Act X of 1872 have been greatly abused. A copy of a circular, No. 56, dated the 22nd August 1877, addressed to all Commissioners of Divisions, as well as an extract (para. 20) from the Resolution recorded on the administration report

of the Police Department for the year 1876 containing the remarks made by the Lieutenant-Governor on this subject, are herewith submitted for the information of the Government of India.

2. The Lieutenant-Governor considers that it is very necessary that in all cases in which persons are required to furnish security for good behaviour there should be an appeal to the Sessions Judge and the High Court as in other criminal cases. I am to suggest that in any future amendment of Act X of 1872 this subject may be duly taken into consideration.

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From H. A. Cockerell, Esq., Officiating Secretary to the Government of Bengal, Judicial Department, to all Commissioners,—No. 56, dated 22nd August, 1877.

I am directed to request your attention to the state of things indicated by the figured statement annexed showing the cases of bad livelihood reported and those in which convictions have been had in the years 1872 to 1876.

2. There has, to the Lieutenant-Governor's mind, clearly been a great abuse of the power conferred on the police and Magistrates in respect to prosecutions for bad livelihood; for the intention of the law was certainly not that the police should be turned loose on the country to prosecute and harass every one against whom there was the slightest ground for suspecting that his character was not altogether unexceptionable.

3. In his Minute of 14th January 1876, which forms the introductory chapter of the report on the administration of Bengal for 1874-75, Sir Richard Temple pressed strongly upon the Magistrates and police, and very properly, that it was their duty to watch the movements of bad characters, and to exercise efficient supervision of them in their villages, but to be very careful that the supervision was not to be "carried so far as to lead indirectly to oppression and do harm while aiming at good." It is to Mr. Eden quite inconceivable how this order can, as he understands that it is, be held to justify the oppressive proceedings which have certainly taken place in many districts in respect to the arrest of persons whom the police choose to say they suspect of being bad characters, and the demand from them of security, or, failing it, condemnation to imprisonment for a long term. The Lieutenant-Governor is of opinion that there is no greater indication of an inefficient and idle police and a careless and inconsiderate magistracy than the admission that crime cannot be checked without locking up, precisely as if they were convicted criminals, all persons of whom it is thought or said by their enemies or neighbours that they are persons who may possibly at some future time or another commit an offence. It is a mode of dealing with crime which would not be tolerated in any country except India. It is a power which it is perhaps necessary to keep in reserve here for the purpose of crushing out offences so peculiar to the country and so dangerous to society as gang-robbery, but it is a power to be used only in very exceptional and rare circumstances.

4. It is impossible to conceive a greater reproach to the police than this admission that they are so deficient in any detective ability that they can only keep crime from increasing by confining every person who it is thought is in any way capable under sufficient temptation to commit crime. No doubt Magistrates will point to tabular statements and show that crime has decreased since these extreme measures were adopted. But this is only true to a very limited and insignificant extent; and it would indeed be extraordinary if, were all the suspected persons and all those whose poverty exposes them to special temptation were locked up, crime were not to decrease. But how little real good is done by the indiscriminate prosecution of suspected persons is clear from the fact that while burglaries and dacoities were 23,698 in 1875, they have only been reduced to 21,793 in 1876, while the convictions and imprisonments on mere suspicion amounted to 3,618. It is quite possible, too, that this variation in crime between the two years is quite normal and unconnected with these proceedings.

5. In Dacca, where the number of persons imprisoned on suspicion had increased from 33 to 158, the burglaries increased; and though the dacoities decreased, it was obviously a very strong measure to institute 264 prosecutions and imprison 158 persons charged with no specific offence to procure such a result as a diminution of 10 dacoities.

6. In Shahabad the cases have risen from 74 in 1872 to 645 in 1876, and from 36 convictions to 502. The dacoities have remained exactly the same in 1876 as in the previous year, though there has been a falling off in burglaries. In Rungpur the prosecutions have risen from 9 with 8 convictions in 1872 to 250 with 177 convictions in 1876.

7. All the persons thus locked up for long terms of years will, it may be safely assumed, return from jail determined and hardened criminals, whatever their character may have been before.

8. The proper way to procure a decrease of crime and break up gangs of dacoits and burglars is to make detection and conviction a probable consequence of crime; but this involves a great deal of labour and some considerable intelligence and perseverance, and it is therefore not to be wondered at if the police prefer having all suspicious persons locked up in order that they may lead lives of idleness and quiet in their stations; and so long as they are encouraged to do this by the District Superintendents and Magistrates, it is not to be expected that they will act with any real vigour or put themselves to any inconvenience in watching the movements of suspected characters, and taking up and working out difficult clues in investigation entrusted to them.

9. The expense to Government of the present system of proceeding against suspected criminals is enormous. In Shahabad 502 persons have been convicted, and are now lodged in jail, and fed and clothed at the Government expense. This is the full ordinary population of a large district jail, and the idleness of the Shahabad police, and the inability of their superiors to control them, throws upon Government the whole cost of supporting these men for terms varying from one year to two years, and of building new jails and increasing old ones because the regular jails are overcrowded with men of this class. No less than 3,618 persons have been convicted under these sections this year in Bengal, and if to these are added the persons convicted in the previous year, most of whom are

still in jail, it will be seen that Government has to keep up a population equal to that of four central jails, because the police are slovenly and incapable in the performance of their duties.

10. No officer who is at all acquainted with the character of Native police or with the peculiarities of Native village society can possibly have any doubt of the amount of oppression, alarm, extortion, intimidation, and wrong involved in 5,062 prosecutions of this sort in a single year.

11. I am to request that you will be good enough to obtain a list of all these convictions during the last 12 months, and to send for a certain number of cases, and see how the enquiries have been conducted. The Lieutenant-Governor will be glad to consider any recommendation you may desire to make on behalf of persons who have been convicted under these sections of the Penal Code. Magistrates and police officers should be told plainly that the Lieutenant-Governor will not consider them deserving of promotion if they cannot manage to check and control crime without having indiscriminate recourse to a form of procedure which was intended to be exceptional and special in its application. The Magistrates and District Superintendents of Shahabad, Dacca, Dinagepur, Rungpur, Monghyr, Manbhum, and Burdwan should be especially warned of the dissatisfaction with which the Lieutenant-Governor has viewed their action in this matter.

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*Statement showing the number of convictions in each District for bad livelihood during the years 1872 to 1876.*

| Districts. | 1872. | | 1873. | | 1874. | | 1875. | | 1876. | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. |
| Burdwan | 55 | 17 | 27 | 8 | 38 | 12 | 60 | 31 | 162 | 120 |
| Bancoorah | 53 | 41 | 55 | 41 | 19 | 12 | 42 | 32 | 43 | 31 |
| Beerbhum | 7 | 5 | 10 | 4 | 11 | 10 | 9 | 1 | 5 | 2 |
| Midnapur | 119 | 74 | 231 | 132 | 206 | 145 | 194 | 148 | 114 | 67 |
| Hooghly | 16 | 10 | 52 | 11 | 19 | 4 | 19 | 5 | 158 | 56 |
| Howrah | 23 | 11 | 14 | 9 | 13 | 15 | 9 | 9 | 11 | 9 |
| Total | 273 | 158 | 389 | 205 | 306 | 198 | 333 | 226 | 493 | 285 |
| 24-Pergunnahs | 202 | 144 | 128 | 72 | 87 | 54 | 95 | 51 | 100 | 63 |
| Nuddea | 83 | 40 | 59 | 26 | 34 | 12 | 56 | 33 | 86 | 45 |
| Jessore | 347 | 229 | 88 | 53 | 75 | 35 | 200 | 158 | 201 | 124 |
| Moorshedabad | 53 | 12 | 64 | 37 | 64 | 21 | 100 | 35 | 195 | 144 |
| Total | 685 | 425 | 339 | 188 | 260 | 122 | 451 | 277 | 582 | 376 |

*Statement showing the number of convictions in each District for bad livelihood during the years 1872 to 1876*—(continued.)

| Districts. | 1872. | | 1873. | | 1874. | | 1875. | | 1876. | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. |
| Dinagepur | 71 | 39 | 15 | 19 | 10 | 5 | 92 | 54 | 363 | 220 |
| Maldah | 13 | 4 | 12 | 6 | 7 | 1 | 23 | 11 | 47 | 30 |
| Rajshahye | 43 | 32 | 34 | 15 | 25 | 19 | 45 | 27 | 63 | 48 |
| Rungpur | 9 | 8 | 143 | 120 | 137 | 131 | 243 | 197 | 250 | 177 |
| Bogra | 12 | ... | 23 | 26 | 6 | 2 | 8 | 2 | 25 | 7 |
| Pubna | 62 | 44 | 35 | 20 | 60 | 41 | 67 | 46 | 90 | 65 |
| Darjeeling | 1 | ... | 3 | 2 | 4 | ... | 1 | 4 | ... | ... |
| Jalpaiguri | ... | ... | 5 | 14 | 15 | 12 | 32 | 62 | 51 | 46 |
| Total | 211 | 127 | 270 | 222 | 264 | 211 | 511 | 403 | 889 | 593 |
| Dacca | 45 | 9 | 72 | 29 | 149 | 50 | 117 | 33 | 264 | 158 |
| Furreedpur | 56 | 28 | 129 | 98 | 76 | 35 | 76 | 56 | 128 | 62 |
| Backergunge | 128 | 47 | 371 | 220 | 88 | 46 | 87 | 35 | 137 | 50 |
| Mymensingh | 22 | 8 | 63 | 15 | 37 | 18 | 32 | 16 | 79 | 38 |
| Tipperah | 70 | 26 | 57 | 18 | 62 | 35 | 56 | 28 | 107 | 84 |
| Total | 321 | 118 | 692 | 380 | 412 | 184 | 368 | 168 | 715 | 392 |
| Chittagong | 31 | 14 | 26 | 16 | 36 | 24 | 27 | 14 | 19 | 10 |
| Chittagong Hill Tracts | ... | ... | 1 | 7 | 1 | ... | ... | ... | 4 | 5 |
| Noakhally | 29 | 11 | 46 | 22 | 26 | 10 | 52 | 21 | 41 | 24 |
| Total | 60 | 25 | 73 | 45 | 63 | 34 | 79 | 35 | 64 | 39 |
| Patna | 147 | 104 | 109 | 91 | 49 | 38 | 120 | 96 | 154 | 149 |
| Gya | 146 | 109 | 241 | 179 | 145 | 101 | 70 | 30 | 217 | 137 |
| Shahabad | 74 | 26 | 51 | 16 | 58 | 39 | 183 | 89 | 645 | 502 |
| Tirhoot | 205 | 130 | 170 | 129 | 190 | 140 | ... | ... | ... | ... |
| Mozufferpur | ... | ... | ... | ... | ... | ... | 209 | 177 | 94 | 65 |
| Durbhunga | ... | ... | ... | ... | ... | ... | 153 | 82 | 119 | 97 |
| Sarun | 73 | 51 | 84 | 66 | 110 | 76 | 101 | 89 | 99 | 82 |
| Chumparun | 123 | 99 | 125 | 94 | 74 | 57 | 173 | 157 | 228 | 201 |
| Total | 768 | 529 | 780 | 575 | 626 | 451 | 1,009 | 720 | 1,556 | 1,230 |
| Monghyr | 93 | 64 | 64 | 44 | 140 | 106 | 159 | 136 | 244 | 209 |
| Bhagulpur | 125 | 71 | 48 | 42 | 22 | 17 | 6 | 3 | 10 | 8 |
| Purneah | 259 | 122 | 233 | 156 | 394 | 267 | 107 | 101 | 180 | 122 |
| Sonthal Pergunnahs | 34 | 54 | 18 | 12 | 5 | 4 | 43 | 57 | 66 | 113 |
| Total | 511 | 311 | 363 | 254 | 561 | 394 | 315 | 297 | 500 | 452 |

*Statement showing the number of convictions in each District for bad livelihood during the year 1872 to 1876*—(concluded).

| Districts. | 1872. | | 1873. | | 1874. | | 1875. | | 1876. | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. |
| Cuttack | 3 | 3 | 1 | 1 | 3 | 5 | 2 | 2 | 1 | ... |
| Pooree | 1 | 1 | 1 | 1 | 3 | 2 | 7 | 5 | 1 | ... |
| Balasore | 25 | 22 | 29 | 25 | 25 | 20 | 55 | 45 | 26 | 17 |
| Gurjhar Mehals | ... | .. | ... | ... | ... | ... | ... | ... | ... | ... |
| Total | 29 | 26 | 31 | 27 | 31 | 27 | 64 | 52 | 28 | 17 |
| Hazaribagh | 2 | 3 | 22 | 8 | 47 | 20 | 34 | 33 | 32 | 26 |
| Lohardugga | 7 | 5 | 1 | ... | 6 | 4 | 1 | 1 | 2 | 2 |
| Singbhum | 3 | 7 | ... | ... | 1 | 1 | ... | ... | 4 | 7 |
| Manbhum | 17 | 15 | 47 | 27 | 34 | 21 | 368 | 268 | 197 | 199 |
| Total | 29 | 30 | 70 | 35 | 88 | 46 | 403 | 302 | 235 | 234 |
| GRAND TOTAL | 2,887 | 1,749 | 3,007 | 1,931 | 2,557 | 1,667 | 3,533 | 2,480 | 5,062 | 3.618 |

**Extract from a Resolution on the Administration Report of the Police Department for the year 1876, dated Calcutta, 26th December 1877.**

PARA. 20. In treating of dacoities he (the Inspector-General) attributes the decrease to the more systematic repressive measures which have been taken against bad characters, the chief among which is their incarceration in default of security for good conduct, and takes much credit for the action of the police in working these sections of the law. But in discussing the subject of petty crime, where he has to account for an increase of offences, he states that "the result of our police operations has been to drive the perpetrators of serious crimes, committed at intervals and on the property of the well-to-do, to take to petty thefts and burglaries committed constantly, and on the rich and poor indiscriminately;" and he elsewhere remarks, with much justice, that the people probably "prefer taking the chance of a dacoity or two happening at intervals in their villages to being systematically plundered of small sums or property of small value by old dacoits converted into local petty thieves." It appears then that, although 3,618 bad characters were locked up last year in pursuit of the object of exterminating dacoity, a very large number of dacoits are still at large, of whom some committed the 137 dacoities which occurred during the year, and the others, prevented by the vigilance of the police from committing crime in numbers

of five and upwards, have taken to solitary burglaries and thefts. With apparent inconsistence the decrease in the number of burglaries in Dinagepur is attributed to the working of the vagrancy sections of the law by the Magistrate of that district. Enquiries have convinced the Lieutenant-Governor that the law has been grossly abused in that district, and a review of the cases by the Commissioner showed that the bulk of the convictions were not warranted by the evidence. Mr. Monro remarks that if we stop here, we leave half our work undone, and he advocates measures of repression which will largely diminish petty, as they have largely diminished serious, crime. In other words, having by locking up for various terms or requiring security from 7,765 persons in three years, succeeded in reducing the number of offences against property from 64,808 in 1873 to 61,112 in 1876, we are to go on until we have locked up the offenders in the great majority of the latter. This is a sufficiently appalling prospect, and apart altogether from the question of accommodation for the vast multitude of suspects whom it proposes to imprison, the Lieutenant-Governor is quite unable to understand how any one with the results of the last year's police action before him could support such a scheme. It is not clear how it happens that while the police by mere force of supervision have been able to deter large numbers of criminals from associating in gangs of five, and thus committing dacoity, their success stops abruptly at this point, and they are powerless either to prevent criminals from committing burglaries alone, or in twos or threes, or to lay their hands on those over whom they are said to keep so strict a watch. The evil is probably greater, and the result more demoralising to the lower classes, than the continuance of dacoity. Mr. Eden does not in the least doubt that the efforts of the police in watching the movements of bad characters were productive of much good during the year, and that they prevented the commission of much organised crime. But he believes that such efforts, properly guided, would have sufficed for the whole object which has been attained, without the aid of wholesale locking up of suspects; and, further, that legitimate supervision of bad characters and the utilisation of the knowledge thus acquired of their habits and movements should and must suffice for the prevention and detection of petty, as of serious, offences against property. The extent of the injustice and oppression which has been occasioned by prosecutions for bad livelihood is apparent on the face of the returns. Of 4,861 persons who were actually tried for bad livelihood during the past year, no less than 1,243, or more than 25 per cent., were acquitted. These are very different from acquittals for specific offences. It may often happen that an innocent man is sent up for trial for a specific offence by a perfectly honest investigating officer. But where the charge is one of general bad livelihood, depending chiefly on the repute in which a man is held by his neighbours, an ordinarily careful police officer can rarely be deceived. But this is not all. It appears that the number of cases of cognizable dishonest crime, serious and petty, was 938 less in 1876 than in 1875; and Mr. Eden is willing to admit that this may possibly be, to some extent, the result of the imprisonment of 1,138 more persons on suspicion in the former than in the latter year, though even this is very doubtful. In some districts, however, such as Monghyr, a positive increase in burglaries has followed on the imprisonment of a large

number of suspects. After allowance is made for the fact that the proportion of convictions to detected cases shows that on the average three persons are concerned in every two cases, it is still quite evident that a large number of persons confined for bad livelihood during the year would, according to the police statistics, not have been concerned in a single offence had they been left at large. The essence of the offence supposed to be proved against bad characters is that they are habitual criminals; whereas it is only by supposing that the great majority would only have committed one offence each that all those convicted are shown to have been rightly punished. Mr. Eden fears that very many of the persons convicted were really innocent, and an examination of some cases which have come before him quite confirms him in the belief that a vast amount of bitter wrong and oppression has been wrought upon the people. Apart, moreover, from the grievous injustice done to the innocent, this wholesale system of prosecutions must defeat its own object in the future. Nothing more certainly leads to the formation of organised bodies of marauders than the congregation of bad characters for comparatively short periods. The really guilty are thrown together and have ample time for maturing future schemes, while those who have been wrongly convicted, knowing the stigma which will always attach to them, and surrounded by evil influence in jail, will, in the majority of cases, return to society hardened criminals. Any man once in jail is, without much analysis of the nature of the crime for which he was confined, entered in the police records and known in his village as a "dagi" or marked man. He is for the rest of his life subject to the prosecution of unscrupulous police subordinates and to denunciation by any of his neighbours with whom he happens to quarrel. Nothing could express more clearly the Lieutenant-Governor's view of the manner in which these investigations are conducted than the following description in the Inspector-General's own words: "The consequence is that, in the majority of cases of bad character sent up, the police do not send up the names of the respectable inhabitants, but summons the chowkeedar and two or three cultivators to testify against the accused," and yet the Inspector-General considers it a matter for congratulation that during the year 1876 no less than 5,154 persons were sent up for trial under such circumstances, that 3,618 of them were thrown into jail, and 1,243 persons were dragged away from their houses, and after judicial inquiry declared not to be the bad characters they were charged to be by the police. Mr Eden finds in the bare figures of the present report abundant proof that a lamentable amount of suffering and wrong has been caused; and, looking to the vast number of false cases of different kinds instituted all over Bengal, he is determined that this fearful engine of oppression shall not be left uncontrolled in the hands of the police, but shall only be used under most effectual safeguards. All enquiries of this nature should be most full and searching, and should, as a rule, be held by the Magistrate in the village of the accused. Mr. Eden will leave it to the judicial officers to satisfy themselves most fully on the spot, not that the accused is a person who may possibly, if left at large, commit some offence, or that he is a person who has some time of his life been in jail on some charge or other, but that he is really a criminal who supports himself by preying upon society.

From J. O'Kinealy, Esq., Offg. Secretary to the Government of India, Home Department, to the Secretaries to the Government of Madras, Bombay, N.-W. Provinces and Oudh, and Punjab,—Nos. 3—219 to 222, dated 16th February, 1878.

With reference to the accompanying letter from the Government of Bengal, No. 416, dated 23rd ultimo, recommending, for reasons specified, that in all cases in which persons are required to furnish security for good behaviour there should be an appeal to the Sessions Judge and the High Court, and suggesting that in any future amendment of Act X of 1872 (the Criminal Procedure Code) this point should be taken into consideration, I am directed to request that you will be good enough, with the permission of * to submit an early report as to the working of the law in †

* Madras ... } His Excellency the Governor in Council,
Bombay ... }
N.-W. P. and Oudh } His Honour the Lieutenant-Governor.
Punjab ... }

† Madras. Bombay. | N.-W. P. and Oudh. Punjab.

2. The Government of India are of opinion that the statistics appended to the letter from the Government of Bengal tend to show that, in the Lower Provinces at all events, the law has been very greatly abused.

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From J. O'Kinealy, Esq., Officiating Secretary to the Government of India, Home Department, to the Chief Commissioners of the Central Provinces, British Burma, Mysore and Coorg, and Assam, and Resident at Hyderabad,—Nos. 3—223 to 227, dated 16th February, 1878.

With reference to the accompanying letter from the Government of Bengal, No. 416, dated 23rd ultimo, recommending, for reasons specified, that in all cases in which persons are required to furnish security for good behaviour there should be an appeal to the Sessions Judge and the High Court, and suggesting that in any future amendment of Act X of 1872 (the Criminal Procedure Code) this point should be taken into consideration, I am directed to request that you will be good enough to submit an early report as to the working of the law in *

* Central Provinces. British Burma. Mysore and Coorg. | Assam. Hyderabad.

2. The Government of India are of opinion that the statistics appended to the letter from the Government of Bengal tend to show that, in the Lower Provinces at all events, the law has been very greatly abused.

From the Hon. D. F. CARMICHAEL, Chief Secretary to the Government of Fort St. George, to the Secretary to the Government of India, Home Department,—No. 493, dated 8th March, 1878.

I am directed to reply to your letter No. 3-219, dated 16th February ultimo. That letter is headed "Confidential," and this communication will be so marked also; but I am to point out that before the letter reached this Government, the enclosure had been discussed in the *Pioneer* of 21st idem, in an article entitled "The Locking-up System."

2. The Government of India enquire how the law regarding requisitions of security for good behaviour is worked in this Presidency. The statistics for the last two years in respect of which the returns are completed show* that, taking the 21 Madras districts, some three or four persons on the average are annually required to find this form of security in each district; the average population of a Madras district being a million and a half.

| * Year. | No. of persons proceeded against. | No. of persons convicted. |
|---|---|---|
| 1875 . . | 71 | 42 |
| 1876 . . | 155 | 87 |

3. Minutes recorded by His Grace and Sir W. Robinson are enclosed. It will be seen that any change in the present law is deprecated.

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Minute by His Grace the PRESIDENT,—dated 4th March, 1878.

I have not noticed, since I have been in Madras, any indication of the law of security for good behaviour being harshly worked or used for extortion.

2. It is a law necessary for public security, but exceedingly open to abuse if not carefully watched, and I therefore gave some attention thereto, but found no reason to think it was wrongly used, or that cases were insufficiently investigated. The figures given by the Chief Secretary confirm this view.

3. No doubt it is possible that among this small number there may be a case or two which might be deemed harsh, for such cases have occasionally happened even in England in recent times, although rarely.

4. As regards change of the law suggested, I am averse to it. Frequent changes of the law are evils—unavoidable if the change is essential—to be avoided if the change be not essential; greater freedom of appeal is suggested as a remedy for what has occurred in Bengal, but I am of opinion that it would not remedy it.

5. The remedy must be sought in more careful scrutiny by the Ma-

gistrates of the cases and evidence before them, and careful, close, and constant supervision of the action of the police in such cases by the superior officers of the police. From the figures given it seems that in Dacca, as 158 only were imprisoned for want of sureties, out of 264 prosecutions there were 106 persons wrongfully prosecuted and defamed without remedy.

| | |
|---|---|
| In Shahabad . . . . . . | { 645<br>502 |
| | 143 |
| In Rungpur . . . . . . | { 250<br>177 |
| | 73 |
| In Bengal . . . . . . | { 5,062<br>3,618 |
| | 1,444 |

6. This large proportion of unfounded prosecutions indicates, to my mind, that there must be a want of sufficiently strict watch over the police, and that the police from their own observation do not fear the condemnation of the Magistrate for bringing forward unfounded cases.

7. Now, would an appeal remedy this state of things more effectually than a stringent watch over the administration of the law and the procedure of the police? I think not, for, taking the total Bengal prosecutions of 5,062, 1,444 cases, which were probably those of the greatest oppression, because unfounded, could never come before any appellate court at all. I think also not, because an appellate court will decide only whether the committal was good on the recorded evidence, and such, it must be assumed, has been generally sufficient on the face of it; and, supposing even that the appellate tribune reversed one-third of the convictions, equal to 1,209, which would be a large percentage, it would have failed to touch the still larger number of unfounded charges which could never be the subject of appeal, and which are, to my mind, the worst feature of the case.

8. The introduction of more frequent appeals also introduces greater uncertainty, detracts in the eyes of the people from the authority and dignity of the local Magistrate, by no means necessarily induces greater caution on the part of the Magistrate, and will give to the police, if so disposed, an additional opportunity for extortion, for if this power of the law is now used as an engine of oppression and extortion, then every opportunity which is afforded of reversal or modification of decision will become an additional opportunity of fleecing friends or relatives.

9. An additional or extended power of appeal will not weed extortioners out of the police; it may correct bad law or want of form in magisterial procedure, but it will not cause a Magistrate to properly test evidence, especially *ex parte* evidence, at the moment it is given, if the

disposition of the Magistrate is not inclined thereto. It is really the careful exercise of the magisterial power and discretion only which can repress an oppressive and extortionate disposition on the part of a police.

10. And that careful exercise will only be ensured by the knowledge that the exercise of the power is closely watched and any abuse of it promptly checked.

The matter should certainly be treated as confidential in reply, but there is no reason why, if it be thought well, the return of cases in Madras Presidency should not be published.

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Minute by the Hon. Sir W. ROBINSON, K.C.S.I.,—dated 6th March, 1878.

I think that the provisions of the law herein alluded to are, as they stand, admirable in every respect, and I should deprecate meddling with them. Appeals and superior revision are provided where really required, without needlessly hampering a careful and judicious magisterial administration. The facts which the Lieutenant-Governor of Bengal so reasonably condemns are the result of mal-administration by both police and magistracy; for the combination is indispensable to success in these wrongdoings.

2. In this Presidency the combination never has occurred, and vigilant control over the police has prevented abuse of the law from arising at their hands from the very first. Even during the early years of severe struggle with the worst forms of gang-robbery in this Presidency, the officers of the police of all grades "have fully understood" (to use the words of the Inspector-General) "that the expedient of putting persons up for security is only to be used in *extreme cases*, and that it is a *sign of defeat*." No prosecution under these provisions of the law has been permitted to be initiated by the police without the personal intervention of the District Superintendent or his Assistant, or under the order of the Magistrate of the District or Division; and these latter have been most watchful and restrictive in the management of the matter. The marginal statement for the last five years shows how carefully the law has been worked in this Presidency. The average has been six prosecutions per district per annum. If anything, the error has been on the safe side, as an inspection of the registers of the known depredators evinces.

| Years. | Numbers prosecuted. | Numbers convicted. |
|---|---|---|
| 1876 . . | 155 | 87 |
| 1875 . . | 71 | 42 |
| 1874 . . | 249 | 152 |
| 1873 . . | 65 | 27 |
| 1872 . . | 110 | 68 |
| | *630 | *336 |

3. Thus, large experience enable me to hold that abuse of the powers of the law by the police can be kept under complete and salutary control; where it occurs, the department is obnoxious to such just animadversions as the Lieutenant-Governor has administered.

* *Sic* in original.

4. The judicial features of the matter are somewhat different, and here more sessional control might possibly be claimed. If Magistrates direct undue prosecutions or encourage the police to bring up improper persons under these sections, administrative control is not perhaps so direct; but I cannot conceive that, in this Presidency at least, the Magistracy would otherwise than respect and advance the proper wishes of the Government to keep the exercise of these exceptional powers under the strictest limit. Here certainly we require no further legislation or increased sessional restrictions.

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From the Acting Under Secretary to the Government of Bombay, to the Secretary to the Government of India, Home Department,—No. 2287, dated 10th April, 1878.

I am directed to acknowledge the receipt of your Confidential letter No. 3-220, dated the 16th February last, forwarding a letter from the Government of Bengal, No. 416, dated the 23rd January 1878, and requesting this Government to submit an early report as to the working of the law which requires persons to furnish security for good behaviour in the Bombay Presidency.

2. In reply, I am desired to forward to you, for submission to the Government of India, the accompanying précis of the reports received from the Commissioners on the subject, together with a statement showing the number of persons who were called on to give security for good behaviour in this Presidency during the years 1874, 1875, and 1876, and to state that the experience of this Presidency does not show any necessity for altering the law.

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Précis of the Report received from the Commissioners on the point raised in respect to appeals to the Sessions Judge and the High Court being allowed in cases in which persons are required to furnish security for good behaviour.

The Commissioner, Northern Division, states that in his opinion no change in the law is required. The law as it stands may have been abused in Bengal; if so, this would be a very sound reason for imposing checks on the officers who have abused the license allowed them; but none for making any change in the law, which works well in this Presidency as it is, and which, as it stands, admits of ample checks being imposed.

The District Magistrate is, to say the least, quite as competent to judge when security is necessary as a Sessions Judge. He may be an officer of twice the experience and service in this country of the Sessions Judge, and it would be out of place to make the opinion of the latter outweigh that of the former on such a question. The District Magistrate

and Collector is the executive head of a large district, and the less he is open to petty interference the better.

The Commissioner is not aware of the system in force in Bengal, but if it is at all similar to that in force in the Bombay Presidency, the blame for injudicious application of the law must rest as much on the Sessions Judge and on the High Court as on the District Magistrates.

The Commissioner adds :—

"IN this Presidency a return in the Form A, hereto attached, is submitted through the Sessions Judge every month to the High Court, and if the Sessions Judge or High Court see any reason to do so they can, of course, under the provisions of Chapter XXII of the Code of Criminal Procedure, call for and examine the record of the Magistrate, and the Judge if he sees anything amiss can refer the case to the High Court.

* Appendix I.

"This Procedure provides ample protection, and to my mind is infinitely preferable to that of allowing an appeal to the Sessions Judge.

"The law certainly seems to be worked very differently in Bengal from what it is in Bombay. From the statements at page 52 of the Appendix C to the Administration Report for the Bombay Presidency for 1875 and also for 1876, I find that the numbers of persons called on to give security within the whole of the Presidency are as follows :—

| | In 1875. | In 1876. |
|---|---|---|
| Security taken by Divisional and First Class Magistrates | 267 | 150 |
| By District Magistrates | 21 | 13 |
| Total | 288 | 163 |

whereas in those years in Bengal the numbers were 2,480 and 3,618.

"It will be observed that in this Presidency almost all cases of demanding security are brought up before the Divisional Magistrates, and as returns of all such cases are submitted to the District Magistrates, who have power under section 511 of the Code of Criminal Procedure at once to release any prisoner confined by order of any subordinate if there seems sufficient reason for so doing, I fail to see that any fresh provisions permitting appeals are necessary or desirable.

"I have made no special allusion to cases coming under section 506 of the Code, *i. e.*, when security is required for more than one year, as all such cases are already submitted to the Court of Sessions."

The Commissioner deprecates strongly the extension of appeals. There is already, he says, ample provision for them in all cases of real importance, and in all others if District Magistrates, Courts of Sessions, and the High Court, through whom returns pass, are reasonably watchful, there is next to no danger of the law being abused.

The Commissioner further observes that if the law is abused in Bengal, let checks be introduced there similar to those existing in the Bombay Presidency ; or if these exist, let the supervising officers be made more watchful, but do not, in consequence of a local and purely provincial failure in administration, change the law for the whole of India in a retrograde direction.

*The Commissioner, Central Division,* appends two statements* the one showing for the districts forming the Central Division the number of cases under Chapter 19 of Act XXV of 1861 in the years 1871 and 1872,

* Appendices II and III.

the other, the number of cases under Chapter 33 of Act X of 1872 for the four years 1873 to 1876, and states that it will be seen from these statements that the provisions of Chapter 38 of Act X of 1872 have been sparingly enforced in that division, and that comparing 1871 with 1876, the latest year for which the returns are available, it does not seem that the Magistrates encourage cases of this sort, or that they inflict punishment without due consideration. The Commissioner has no reason to believe that the powers conferred by the law on District Magistrates has been in any way abused, or that anything can be proved to show that reliance cannot be placed on their judgment and discretion. The Commissioner further observes that the administration of the provisions of the law referred to by the Lieutenant-Governor of Bengal is a matter specially for the magistracy, and it is not desirable that appeals should, in such, cases be allowed to the Sessions Judges.

*The Commissioner, Southern Division,* also forwards a statement† showing the number of arrests and convictions for bad livelihood during the years 1874, 1875, and 1876 in the five districts of his division, and states that it will be seen from this statement that the power conferred on the police and the magistracy in respect to prosecutions for bad livelihood has been but sparingly used, and that there do not seem any reasons for supposing that this form of procedure has been indiscriminately brought in force by the local authorities. The Commissioner, under these circumstances, does not consider it desirable that there should be any change in the law regulating appeals in cases in which persons are required to furnish security for good conduct.

† Appendix IV.

The Commissioner remarks:

"It is very necessary that the Magistrate of the District should have summary powers in exceptional cases to confine dangerous characters without his orders being subjected to revision. The mere knowledge that the Magistrate possesses this authority may either have the effect of keeping persons of evil livelihood out of his jurisdiction or of inducing them to good behaviour. The evidence on which the Magistrates proceed in investigations of this character is derived from local sources, and can be much better appreciated by the deciding authority on the spot than by courts at a distance, which are unable to fully realise the peculiar circumstances which induce the police and the magistracy to take action against particular individuals. It was doubtless with the intention of strengthening the hands of the magistracy that the law of appeal was so materially altered in the new Code of Criminal Procedure, Act X of 1872, and the manner in which the new form of procedure has been administered by the authorities in this Presidency does not seem to require that the summary powers conferred upon them should be curtailed."

*The Acting Commissioner of Sind* reports that he has no reason for supposing that the powers conferred under chapter 38 of the Code of Criminal Procedure are abused in that province. The returns for 1876, the Acting Commissioner observes, show that out of 116 persons brought before the Magistrates, 44 were discharged without trial and 18 were acquitted, 71 being ordered to furnish security: of the latter number 49 belonged to the Kurrachee District, out of a total of 86 persons brought up before the Magistrates. The number of convictions to arrest, therefore, for the whole province is only about 61 per cent.; and in Kurrachee, where the greatest number of cases occurred, only 57 per cent. The Acting Commissioner thinks that it may therefore be assumed that the Magistrates have fairly investigated the cases that were brought up

before them. The Acting Commissioner also remarks that by far the greater number of these cases were disposed of by the 1st Class Magistrates, and an appeal lies from their decisions to the District Magistrates.

The Acting Commissioners knows of no reason why the appeals against convictions in these cases (whether passed by District Magistrate or 1st Class Magistrate) should not lie to the Sessions Court in the same way that they lie in the case of all other convictions. This, the Acting Commissioner states, was the case formerly, and he is not aware why the procedure was altered. He adds:

"The power of taking security from bad characters is a very valuable one, but it could just as well be exercised under the old as under the new procedure; and it is perhaps an anomaly that a District Magistrate should have power to pass an order which virtually, in many cases, would amount to a sentence of one year's imprisonment, and against which no appeal lies, when an appeal would lie against such a sentence passed by him on conviction for an offence."

## Appendix I.

(Form B.)

*Monthly Return of cases under chapter 38 of the Criminal Procedure Code (security for good behaviour) disposed of during the month of ——— 188 , in the District of .*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| No. of cases. | Name. | Age. | Race, Religion or Caste. | Occupation. | Residence. | Ground for requiring or for forfeiting security. | Nature of security required or forfeited. | Decision and date. | By what authority. | Remarks. | Remarks by the Session Judge. |
| | | | | | | | | | | | |

Forwarded by the Magistrate of the District to the Session Judge on the 188 .

Forwarded by the Session Judge to the Registrar of Her Majesty's High Court on the 188 .

## Appendix II.

*Statement showing the number of cases under Chapter 19 of Act XXV of 1861 (old Criminal Procedure Code) reported as having occurred in each of the six Districts of the Central Division during the years 1871 and 1872.*

| Years. | Districts. | No. of cases occurred. | No. of persons arrested. | No. of persons convicted. | Remarks. |
|---|---|---|---|---|---|
| 1871 ... | Ahmednagar . . | ... | ... | ... | |
| | Khandesh . . | 3 | 3 | 2 | 1 acquitted by Magistrate. |
| | Nasik . . . | 1 | 1 | ... | 1 ditto ditto. |
| | Poona . . . | ... | ... | ... | |
| | Satara . . . | ... | ... | ... | |
| | Sholapur . . . | 2 | 167 | 17 | 150 ditto ditto. |
| | Total . | 6 | 171 | 19 | |
| 1872 ... | Ahmednagar . . | ... | ... | ... | |
| | Khandesh . . . | 2 | 2 | 2 | |
| | Nasik . . . | ... | ... | ... | |
| | Poona . . . | ... | ... | ... | |
| | Satara . . . | ... | ... | ... | |
| | Sholapue . . . | 2 | 4 | ... | 4 acquitted by Magistrate. |
| | Total . | 4 | 6 | 2 | |

E. P. ROBERTSON,
*Commissioner, Central Division.*

## Appendix III.

*Statement showing the number of cases under Chapter 38 of Act X of 1872 (new Criminal Procedure Code) reported as having occurred in each of the six Districts of the Central Division during the years 1873 to 1876.*

| Years. | Districts. | No. of cases occurred. | No. of persons arrested. | No. of persons convicted. | Remarks. |
|---|---|---|---|---|---|
| 1873 ... | Ahmednagar | 1 | 2 | 2 | |
| | Khandesh | 11 | 21 | 6 | 13 released by Magistrate without trial. 2 acquitted by Magistrate. 15 |
| | Nasik | 3 | 14 | 14 | |
| | Poona | 2 | 2 | 1 | 1 acquitted by Magistrate. |
| | Satara | ... | ... | ... | |
| | Sholapur | 2 | 2 | 2 | |
| | Total | 19 | 41 | 25 | |
| 1874 ... | Ahmednagar | 1 | 1 | 1 | |
| | Khandesh | 4 | 6 | 4 | 2 released by Magistrate without trial. |
| | Nasik | 2 | 5 | 5 | |
| | Poona | 10 | 14 | 13 | 1 ditto ditto. |
| | Satara | ... | ... | ... | |
| | Sholapur | ... | ... | ... | |
| | Total | 17 | 26 | 23 | |
| 1875 .. | Ahmednagar | 2 | 6 | 6 | |
| | Khandesh | 25 | 66 | 44 | 11 released by Magistrate without trial. 11 acquitted by Magistrate. 22 |
| | Nasik | ... | ... | ... | |
| | Poona | 1 | 1 | 1 | |
| | Satara | 1 | 1 | 1 | |
| | Sholapur | 1 | 1 | 1 | |
| | Total | 30 | 75 | 53 | |
| 1876 ... | Ahmednagar | 4 | 4 | 3 | 1 acquitted by Magistrate. |
| | Khandesh | 8 | 13 | 7 | 4 pending trial by Magistrate. 2 acquitted by Magistrate. 6 |
| | Nasik | 4 | 6 | 5 | 1 acquitted by Magistrate. |
| | Poona | ... | ... | ... | |
| | Satara | ... | ... | ... | 1 acquitted by Magistrate. |
| | Sholapur | 1 | 1 | ... | |
| | Total | 17 | 24 | 15 | |

E. P. ROBERTSON,
*Commissioner, Central Division.*

# Appendix IV.

*Statement showing the number of arrests and convictions for bad livelihood during the years 1874, 1875, and 1876 in the five Districts of the Southern Division.*

| Districts. | 1874. | | | 1875. | | | 1876. | | | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|
| | Number arrested. | Number convicted. | Number pending. | Number arrested. | Number convicted. | Number pending. | Number arrested. | Number convicted. | Number pending. | |
| Belgaum . . | 10 | 9 | ... | ... | ... | ... | ... | ... | ... | |
| Dharwar . . | 33 | 20 | ... | 22 | 14 | ... | 22 | 5 | 2 | These figures have been taken from the Police Reports. |
| Kaladgi . . | 20 | 1 | ... | 17 | 10 | ... | 1 | 1 | ... | |
| Kanara . . | ... | ... | ... | 2 | 2 | ... | 2 | 2 | ... | |
| Ratnagiri . . | 3 | 3 | ... | 2 | 2 | ... | ... | ... | ... | |
| | 66 | 33 | ... | 43 | 28 | ... | 25 | 8 | 2 | |

A. GREY,

*Commissioner, Southern Division.*

## Appendix V.

*Statement showing the numbers of persons who were called on to give security within the Bombay Presidency (inclusive of Sind) during the years 1874, 1875, and 1876.*

| | 1874. | 1875. | 1876. |
|---|---|---|---|
| Security taken by Divisional and First-class Magistrates . . | 174 | 267 | 150 |
| Ditto by Local and Sub-Paid Magistrates. | ... | ... | 2 |
| Ditto by District Magistrates . | 11 | 21 | 13 |
| | 185 | 288 | 165 |

J. MONTEATH,
*Acting Under Secretary to Government.*

From C. ROBERTSON, Esq., Secretary to Government, North-Western Provinces and Oudh, to the Secretary to the Government of India, Home Department,—No. 1198A., dated Naini Tal, 16th August, 1878.

I am directed to acknowledge the receipt of your letter No. 3-221, dated 16th February, 1878, calling for a report on the working in these provinces of the law relating to the requirement of security for good behaviour from persons suspected of bad livelihood.

2. In reply, I am to submit the enclosures marginally noted for the information of His Excellency the Governor General in Council, as also a statement* of the number of persons convicted under these sections in the North-Western Provinces and in Oudh, from 1873 to the end of last year; and I am to state that, as far as his enquiries extend, the Lieutenant-Governor is satisfied that the present procedure in the North-Western Provinces and Oudh is regular and careful, that Magistrates as a rule are strict and watchful in their supervision of police proceedings under chapter 38 of the Criminal Procedure Code, and are anxious to require adequate proof of bad livelihood.

Letter from Inspector-General of Police, No. 232A., dated 21st March, 1878.

Letter from Judicial Commissioner, Oudh, No. 582, dated 13th May, 1878.

Extract paragraph 11 from Oudh Criminal Justice Review for 1877.

Paragraph 32 of Inspector-General's Annual Report for 1877 on Administration of Police.

| * | Year. | *Cases.* Reported during the year. | *Cases.* Investigated, including cases of previous years. | Convicted. | *Persons.* Arrested. | *Persons.* Convicted. |
|---|---|---|---|---|---|---|
| N.-W. P. | 1873 . . | 1,135 | 1,136 | 837 | 2,355 | 1,583 |
| | 1874 . . | 1,330 | 1,335 | 1,003 | 2,914 | 2,110 |
| | 1875 . . | 1,567 | 1,575 | 1,204 | 3,076 | 2,181 |
| | 1876 . . | 1,095 | 1,105 | 847 | 1,780 | 1,630 |
| | 1877 . . | 1,091 | 1,097 | 885 | 2,122 | 1,957 |
| OUDH. | 1873 . . | 400 | 400 | 300 | 724 | 531 |
| | 1874 . . | 378 | 378 | 257 | 644 | 428 |
| | 1875 . . | 448 | 448 | 327 | 769 | 571 |
| | 1876 . . | 386 | 386 | 307 | 662 | 546 |
| | 1877 . . | 400 | 401 | 306 | 734 | 537 |

3. In particular cases it is quite possible that injustice may have been done, just as in any other criminal charges, since no magistracy is immaculate; but, judging from the number of convictions, there is no reason whatever to suppose that the police have been able to wield these particular

sections in any appreciable degree for the purpose of oppression or corruption, or that Magistrates of Districts have, except in very isolated instances, exercised their powers with capriciousness or without discretion; while there are no grounds for believing that excessive security has been demanded, or that the number of prosecutions has been excessive. Attempts are doubtless sometimes made by the police to secure convictions for bad livelihood of persons whom they suspect of complicity in a particular crime, but against whom they have failed to procure any satisfactory evidence. In His Honour's belief, however, even this procedure is generally discouraged by Magistrates, and is as a rule unsuccessful. While His Honour considers that no necessity has arisen in these provinces, owing to any injudicious or oppressive working of the law, for any amendment of chapter 38, in the direction of allowing an appeal either to the Sessions Judge or to the High Court, he would deprecate its alteration in the manner suggested by His Honour the Lieutenant-Governor of Bengal, at least so far as these provinces are concerned. In Sir George Couper's opinion the power at present vested in the Magistrates of Districts is one which in India it is absolutely necessary for the general good government and security of the country that they should possess; and their consciences and the general supervision exercised by Government should be trusted to see that these powers are not abused.

4. It is known, for instance, to His Honour that in several of the large cities in these provinces there are numbers of ruffians, whose means of livelihood consist in the levy of black-mail from wealthy maháјans and others, whose feelings of respectability are outraged by being struck with a shoe in open day in the event of their refusal to comply with the demand for a gratuity. The disgrace for life which is entailed on respectable native gentlemen and traders, when thus assailed, causes the refusal of the unwarranted demand to become of very rare occurrence indeed. The victims to these outrages are well aware of the inefficacy of a criminal prosecution, since these ruffians generally manage to make their demand in private; while the native gentlemen attacked by them feel certain that any attempt to charge them before a Magistrate would be followed by a still more serious or aggravated assault. It is for the putting down of oppression of this character that these sections of the Code are peculiarly valuable; and the Magistrate of the District, from

his local knowledge as well as in most cases from personal investigation, is in a better position to adjudicate such charges on their merits, than any appellate tribunal, whose Judge would probably confine himself to a most rigid and technical scrutiny of the evidence on the record with the very possible result of a reversal of the Magistrate's order, since in many instances it is difficult to adduce such convincing proof in a written form before courts of justice as would warrant a conviction in the eyes of the Judge. By any reversal of his decision, in cases of the nature referred to, the Magistrate's action would be often paralysed to an extent prohibitive of the maintenance of security and good order in large cities.

5. At the same time there can be no doubt that the power at present entrusted to the Magistrates is essentially despotic in its character; but it appears to the Lieutenant-Governor to be necessary, and His Honour would therefore do nothing to curtail it, although he is not prepared to say that its exercise may not in particular instances be too free. This, however, may, in Sir George Couper's opinion, be remedied in a different and more appropriate direction than in the grant of an appeal to the Judge or the High Court, by requiring the Commissioner to examine periodically the cases in which the Magistrate has demanded security. If this were done, and if, on the report of the Commissioner, any disclosure of an excessive use of these sections of the Code was censured by Government, it would result that very soon Magistrates would become as cautious as there is any need they should be. Information would also be secured in regard to the description of cases in which Magistrates had too readily issued the order for security bonds, and instructions could then be issued which would guard against future abuse.

6. With the object of securing detailed information, in regard to the exercise of their power under these sections by Magistrates of Districts, His Honour intends to issue instructions for the inclusion of a detailed report on the subject in the annual district police reports. Magistrates will be directed to show—

I.—The kind or course of criminal conduct which the persons convicted were held to follow, as thieving, bullying, receiving of stolen property, &c.

II.—Whether in all cases the person ordered to find security had been previously convicted, or, if not, in what number of cases this was not proved.

III.—The circumstances under which the prosecutions had arisen, *i. e.*, the number originated

(*a*) by the police,
(*b*) by the Magistrate's order,
(*c*) by private individuals.

IV.—The kind of evidence accepted by Magistrates as conclusive of the necessity for requiring security.

V.—The amount of security demanded, the number of cases in which default was made, and the reasons for such default.

7. Commissioners will also be desired, in reviewing the police reports, to state their opinion as to the judiciousness of each Magistrate's exercise of the powers entrusted to him by the present law, and the Inspector-General of Police will be asked to sum up the result of these divisional reports in submitting his annual police report.

In this way the subject under discussion will be brought under the more direct review of Government.

8. His Honour trusts that His Excellency in Council will approve of these instructions, and Sir George Couper would advise that the results of this closer scrutiny and supervision, during the next one or two years, may be awaited before any proposals for amending the law are taken into consideration.

9. The opinion of the High Court on this question has been solicited, and will be forwarded when received.

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From Colonel E. Tyrwhitt, Inspector-General of Police, N.-W. Provinces and Oudh, to Secretary to Government, N.-W. Provinces and Oudh,—No. 232A, dated Allahabad, 21st March 1878.

In consequence of the strictures passed by His Honour the Lieutenant-Governor of Bengal in the Government Review on the Bengal Police Administration Report for 1876, and the remarks made in the House of Commons (as received by last mail) on the subject of the procedure of the police in cases under chapter 38, Criminal Procedure Code (Vagrancy and Bad Character), I considered it advisable to call on some of the most experienced Magistrates of the North-Western Provinces and Oudh for information as to their procedure in such cases.

2. The result is that they repudiate for the North-Western Provinces the procedure as contained in the Bengal report for 1876, see page 10, paragraph 20,* and state, almost as a body, that they are never

* Nothing could express more clearly the Lieutenant-Governor's view of the manner in which these investigations are conducted than the following description in the Inspector-General's own words :—

"The consequence is that in the majority of cases of bad character sent up, the police do not send up the names of the respectable inhabitants, and summon the chaukidar and two or three cultivators to testify against the accused."

satisfied with the evidence upon which convictions apparently were obtained in Bengal, *viz.*, the evidence of the village chaukidars and of a cultivator or two selected by the police to condemn innocent men.

The usual procedure, as I gather from the replies received, is as follows :—

The police are, as a rule, discouraged from sending up these cases, but when they do so, a most searching enquiry, sometimes on the spot, is made by the Magistrate having territorial criminal jurisdiction. If the police send a man up, they are called upon to specify particular cases, and, unless more than one previous conviction can be obtained, the case is dismissed.

4. Again, many of these cases are brought to the notice of the Magistrates by others than the police, on petition; in these cases also a searching enquiry is ordered, and then, if there are good grounds for supposing the man to be by repute a thief, the police are directed to send him up for trial, or have security for attendance taken from him.

5. I solicit attention to Mr. Quin's reply: he states that the percentage of vagrancy cases to bad livelihood cases is very small, and that the initiative in bad livelihood cases is taken by the magistracy (not by the police), who, on the strength of petitions presented to them, or of facts which come to light in the trial of criminal cases, direct a police enquiry, or direct that certain persons be sent in.

6. The magisterial courts in the North-Western Provinces and Oudh do not commit on the evidence of the village chaukidars and a cultivator or two; on the contrary, cases are received with extreme caution, and are most thoroughly investigated by Magistrates, before the punishment of imprisonment is inflicted, or even before security is taken.

7. I venture to remark that if, as the Honourable the Lieutenant-Governor of Bengal states, "a lamentable amount of suffering and wrong has been caused," it is the Bengal Magistracy who are to blame as much as the Bengal police.

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From W. C. Capper, Esq., Judicial Commissioner, Oudh, to Secretary to Government, N.-W. Provinces and Oudh,—No. 582, dated 13th May 1878.

With reference to your No. 607A, of 7th May, I have the honour to report that the average annual number of persons charged in the 12 Districts of Oudh under sections 504 and 505 of Act X of 1872, has been 718, the number ranging from 779 in 1873 to 648 in 1874. The average number from whom security was demanded was 519, or 72 per cent. of those charged. During the same period security for a longer period was required under sections 506 and 508 from an average of 10 persons out of 11 charged. During the 5 years three persons only applied under section 513 to be relieved

| | *Number of persons charged under section 504 and 505.* | *Number from whom security was demanded.* |
|---|---|---|
| 1873 .. | 779 | 568 |
| 1874 .. | 648 | 427 |
| 1875 .. | 733 | 526 |
| 1876 .. | 695 | 536 |
| 1877 .. | 733 | 540 |
| Average .. | 718 | 519 |

from their suretyship, whilst proceedings were had on the bond in 20 instances.

2. The total imprisoned in the province being 730 persons is about equal to the return of the single district of Shahabad. The Police Department, and at times the Executive, would seem to have put pressure on the Magistrates to enforce these sections, but the general tendency of the judicial authorities would seem to have been the other way. Still, the number of persons confined is, in my opinion, larger than it ought to be.

3. As long ago as 1871 the Judicial Commissioner quoted in paras. 46-47 of his annual report, passages which reflected on the prosecutions under sections 295-96 of Act XXV of 1861, such as—"in most cases the evidence is far from satisfactory; there appears a tendency to use the law as an engine of oppression;" and "the police often employ these sections to gratify private pique or procure the imprisonment of a man whom they suspect of some crime, but against whom they cannot procure evidence as regards the commission of that crime." In that year the Judicial Commissioner cancelled several orders referred to him.

4. In 1872 (Judicial Commissioner's para. 48), the Deputy Commissioners, Gonda and Bara Banki, find it difficult to adduce evidence of bad livelihood which will satisfy the courts, but the former adds that he has gone over many cases in which the accused were released, and can safely say that there was not a particle of evidence in any one of them on which a Magistrate could act. The police are too apt to send men up indiscriminately, and subordinate native officers are apt to use the law as a means of bullying a man they suspect, but against whom they cannot exactly prove anything.

5. Under the new Code these cases did not come before the Judicial Commissioner, so were not noticed by him; but in para. 9 of the report for 1876 he quotes without comment remarks made by me when Commissioner of Fyzabad Division, which I have affirmed in the provincial criminal report for 1877,—"I have no wish to see a large percentage of convictions in cases of vagrancy and bad livelihood. To declare a man a bad character and get him imprisoned in default of giving security, is a very convenient and acceptable procedure even to an honest police officer who shrewdly suspects a man of being a thief, but with all his efforts cannot convict him of any particular theft. But it is a very dangerous power to give to natives, either of the regular or village police, and Magistrates do well when they require strict evidence of general criminal repute. I could wish that the police would collect their materials at their leisure, but would bring up such cases in the cold season when the Magistrates are on tour in the neighbourhood of the accused's village, and can satisfy themselves on the spot as to what the local repute of the man really is."

6. I would recommend that an appeal in these cases be allowed, especially now that all Magistrates are called on to exercise police functions, and the calm impartiality of one who is only a Judge is proportionately liable to be lost, and I would restore to the Judicial Commissioner, who has no executive police functions, the power of revising the orders of Magistrates and Commissioners (as Sessions Judges) passed under these sections.

Extract para. 11 from Oudh Criminal Justice Review for 1877.

11. *Para.* 15.—The Deputy Commissioner of Gonda's remark that the increase of "*badmashi*" cases was natural in a year of scarcity is not understood. Chapter 38 of Act X of 1872 only concerns certain specified clauses of vagrants and persons who are by repute or by habit breakers of the law; ordinary beggars, houseless women, destitute labourers, and impoverished cultivators do not necessarily become liable to its provisions. With regard to this portion of your report, I am desired to express His Honour's hope that all district officers will exercise a close supervision over the procedure of the police, and the action of their subordinate Magistrates in this matter of requiring security from persons suspected of evil livelihood. Sir George Couper has no reason to conclude that these provisions of the criminal law are, as a rule, employed otherwise than for the public benefit, but they may very easily be made the means of perpetrating individual acts of oppression. Wherever it is practicable, His Honour desires that all such enquiries should be carried out in the vicinity of the accused person's village, where satisfactory evidence as to his character and pursuits may most readily be procured.

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Extract para. 32 of Inspector-General's Annual Report for 1877 on Administration of Police.

32. *Class VI.—Vagrancy and bad character.*—In the two provinces 1,491 cases were reported, and 1,191 with 2,494 persons were convicted. There were 4 cases less reported in the North-Western Provinces as compared with 1876, but 337 persons more were convicted. The magistracy of the North-Western Provinces and Oudh have exercised a very careful supervision over the police action in all charges made against bad characters. The number convicted is almost on a par with the number for 1875.

Cases of vagrancy and bad character reviewed and a table appended.

| | Cases. | | | Persons. | | Remarks. |
|---|---|---|---|---|---|---|
| | Reported. | Investigated. | Convicted. | Arrested, including those pending at the end of last year. | Convicted. | |
| N.-W. Provinces . | 1,091 | *1,097 | 885 | 2,122 | 1,957 | * Includes 6 cases of previous years. |
| Oudh . . . | 400 | 401 | 306 | 734 | 537 | |
| Total . | 1,491 | 1,498 | 1,191 | 2,856 | 2,494 | |

*Class VI.—Vagrancy and bad character.*

| Districts. | Cases. | | | Persons. | | Remarks. |
|---|---|---|---|---|---|---|
| | Reported during the year. | Investigated. | Convicted. | Arrested, including those pending at end of last year. | Convicted. | |
| Meerut | 36 | 36 | 21 | 93 | 61 | |
| Aligarh | 49 | 49 | 46 | 81 | 74 | |
| Sahâranpur | 20 | 20 | 16 | 42 | 31 | |
| Muzaffarnagar | 35 | *42 | 30 | 78 | 55 | * 8 of previous year. |
| Bulandshahr | 27 | 25 | 22 | 69 | 51 | |
| Dehra Dún | 2 | 2 | 2 | 4 | 3 | |
| Bareilly | 115 | 115 | 101 | 211 | 157 | |
| Bijnor | 34 | 34 | 24 | 50 | 30 | |
| Moradabad | 26 | 26 | 18 | 44 | 33 | |
| Budaun | 48 | 48 | 43 | 77 | 61 | |
| Shâhjahânpur | 16 | 16 | 15 | 23 | 21 | |
| Agra | 130 | 130 | 117 | 323 | 259 | |
| Muttra | 11 | 11 | 4 | 23 | 6 | |
| Farukhabad | 27 | 27 | 22 | 51 | 31 | |
| Mainpuri | 24 | 24 | 24 | 38 | 36 | |
| Etáwah | 45 | 45 | 25 | 121 | 44 | |
| Etah | 19 | 19 | 14 | 34 | 18 | |
| Allahabad | 6 | 6 | 5 | 7 | 5 | |
| Cawnpore | 34 | 34 | 16 | 65 | 27 | |
| Fatehpur | 10 | 10 | 7 | 18 | 13 | |
| Bánda | 15 | 15 | 7 | 40 | 8 | |
| Hamírpur | 20 | 20 | 16 | 32 | 24 | |
| Jaunpur | 31 | 31 | 25 | 48 | 42 | |
| Benares | 25 | 25 | 24 | 31 | 28 | |
| Gorakhpur | 79 | 79 | 78 | 150 | 136 | |
| Azamgarh | 26 | 26 | 19 | 46 | 35 | |
| Mirzapur | 30 | 30 | 18 | 63 | 44 | |
| Ghâzipur | 40 | 40 | 30 | 62 | 45 | |
| Basti | 20 | 20 | 19 | 32 | 31 | |
| Jhânsi | ... | ... | ... | ... | ... | |
| Jalaun | 9 | 10* | 6 | 14 | 11 | * 1 of previous year. |
| Lalitpur | 19 | 19 | 15 | 31 | 26 | |
| Kumaun | 14 | 14 | 13 | 28 | 25 | |
| Tarái | 19 | 19 | 18 | 26 | 24 | |
| Garhwál | 2 | 1 | 1 | 3 | 3 | |
| Government Railway Police, North-Western Provinces. | 25 | 25 | 23 | 61 | 58 | |
| Ditto, Scinde, Panjáb and Delhi. | 2 | 2 | 1 | 2 | 1 | |
| Ditto, Rajputána | 1 | 1 | ... | 1 | ... | |
| Total, North-Western Provinces | 1,091 | 1,097 | 885 | 2,122 | 1,957 | |
| Lucknow City | 54 | 54 | 45 | 73 | 60 | |
| Lucknow district | 19 | 19 | 17 | 30 | 22 | |
| Unao | 19 | 19 | 8 | 42 | 13 | |
| Bara Banki | 46 | 46 | 42 | 97 | 87 | |
| Sitapur | 24 | 24 | 17 | 48 | 32 | |
| Hardoi | 44 | 44 | 33 | 86 | 63 | |
| Kheri | 38 | 38 | 35 | 78 | 71 | |
| Fyzabad | 36 | 36 | 24 | 39 | 25 | |

| Districts. | Cases. | | | Persons. | | Remarks. |
|---|---|---|---|---|---|---|
| | Reported during the year. | Investigated. | Convicted. | Arrested, including those pending at end of last year. | Convicted. | |
| Bahraich . . . . . | 10 | 10 | 5 | 19 | 12 | |
| Gonda . . . . . . | 60 | 60 | 40 | 127 | 83 | |
| Rae Bareli . . . . . | 24 | 24 | 15 | 46 | 23 | |
| Sultanpur . . . . . | 16 | †17 | 16 | 32 | 30 | † 1 of previous year. |
| Partabgarh . . . . . | 10 | 10 | 9 | 17 | 16 | |
| Total, Oudh . | 400 | 401 | 306 | 734 | 537 | |
| GRAND TOTAL . | 1,491 | 1,498 | 1,191 | 2,856 | 2,494 | |

From C. ROBERTSON, Esq., Secretary to Government, North-Western Provinces and Oudh, to the Secretary to the Government of India, Home Department,—No. 1366A., dated 14th September, 1878.

IN continuation of this office No. 1198A., dated 16th August 1878, on the working in these provinces of the law relating to the requirement of security for good behaviour from persons suspected of bad livelihood, I am directed to forward, for information, a copy of a letter, No. 3722, dated 24th August 1878, from the Registrar, High Court, and enclosures, on the subject.

In submitting the papers I am to remark (1) that the greater part of the Court's observations refer to orders requiring security to be taken to prevent a breach of the peace, and (2) that the course which the two Honourable Judges recommend for the future is not an amendment of the law, but is in accordance with the proposals made by this Government in my letter of the 16th August, with the object of guarding against any future abuse of the powers vested in Magistrates by the existing law.

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From R. J. CROSTHWAITE, Esq., Registrar, High Court of Judicature, North-Western Provinces, to the Secretary to Government, North-Western Provinces and Oudh,—No. 3722, dated 24th August, 1878.

I am directed to acknowledge the receipt of your letter dated the 1st March last, No. 241A., in the Judicial (Criminal) Department, requesting a report in regard to the working in the North-Western Provinces of the sections of the Criminal Procedure Code relating to bad livelihood, together with an expression of the Court's opinion as to whether the law has been abused; and in reply to submit the following remarks and

observations recorded by Mr. Justice Turner and concurred in by Mr. Justice Pearson :—

2. "The Court has seen reason to think that the provisions of the law which enable Magistrates to require persons to find security for good behaviour have in some instances been indiscreetly applied. It has found that in some districts under different Magistrates the numbers of persons required to find sureties have varied greatly, and that in different districts the percentage of persons who are imprisoned on account of their inability to find sureties also varies considerably.

"In Cawnpore in 1875, 251 persons were required to find sureties, and all were imprisoned in default In Cawnpore in 1872, 36 persons only were required to find sureties, and 18 imprisoned in default.

"In Meerut 238 persons were required to find sureties in 1874, and in 1876 no more than 90, of whom only 20 were imprisoned in default."

3. The Court has frequently brought the subject to the notice of Government. In its report for 1867 will be found the following paragraphs :—

"60. Again the number of persons ordered to enter into recognizances, or to give security to keep the peace, *viz.*, 4,465, is very large. In the district of Sháhjahánpur alone, 567 persons were so dealt with, and of these 347 in the court of one officer. It has been found necessary to point out that the mere existence of a dispute between two parties is not sufficient to justify action under chapter 18 of the Code. There must be a conviction for an offence mentioned in section 280 before an order can be passed under that section; or, if there be no conviction, the Magistrate must be in possession of credible information that a breach of the peace is likely to occur, before he can summon any person to show cause why he should not be required to enter into a bond to keep the peace, and only on the appearance of such person, and on the Magistrate being satisfied that it is necessary for the preservation of the peace to take a bond, can he make order accordingly.

"61. The next statement shows the number of persons sentenced to the punishment of whipping, and the crimes for which they were punished."

In its report for 1869, it was able to inform the Government that the provisions of the law had been worked with more discretion. The number of imprisonments had diminished. In 1870, 1,019 persons were imprisoned in default: in 1871, 1,086: in 1872, 1,042. In 1873 the number increased to 1,235, and in 1874 to 1,255, being 33 per cent. of the total number required to furnish sureties. In 1875, 2,008 persons, being 59 per cent. of the whole number called upon, were imprisoned in default. The Court reported to the Government that, in view of the very different results exhibited in different districts, it had reason to fear that the extraordinary powers under which the Magistrates required security were not always exercised with sufficient discretion. In support of this view it furnished a table, a copy whereof is herewith submitted, and forwarded an extract from the report of Mr. Young, the Magistrate of Mainpuri, which is also submitted, and expressed its concurrence with, and approval of, Mr. Young's remarks.

In 1876 the number of persons imprisoned had again been reduced to 1,384, being 45 per cent. of the total number of persons required to furnish sureties. The Court in its report pointed out that the provisions of the law might be used harshly and oppressively, that great diversity of practice prevailed in different districts, and even in the same district under different Magistrates.

It added, it had reason to fear that the security required was in many

cases fixed at amounts for which it was quite unreasonable to expect the party ordered to find sureties to furnish them.

4. There is little to be added to the above remarks. In the observations communicated by the Court to the district officers ni reply to the annual reports, the Court has constantly insisted on the exercise of discretion in such cases. There has been some improvement, but some Magistrates, either through a misapprehension of the intention of the law, or from unacquaintance with the means of the people, apply the provisions of the law with harshness.

They were intended clearly as a preventative, and not a penal measure, and it was expected that the security demanded should in its amount bear some relation to the position in life of the person required to furnish security. Recently some youths of a tribe of wandering thieves were required to find sureties in Rs. 100.

5. In the execution of this part of their duty and in the imposition of fines, Magistrates frequently appear not to appreciate the poverty of the classes with which they have principally to deal.

6. It is difficult to suggest in what manner the law could be altered without depriving Magistrates of powers which, duly exercised, are highly useful. If the Government were by Resolution to point out the objects of the law, to impress on the magistracy the duty of discretion in its application, and (as it would be justified in doing) intimate its opinion that, where there are no special circumstances, the excellence of the magisterial and police administration of a district may be gauged by the less or greater frequency of resort to these exceptional powers, it would probably remove any ground for complaint.

*Comparative statement of the number of persons required to find security for good behaviour, or sureties to keep the peace, and the number imprisoned in default, from 1872 to 1876.*

| Districts. | 1872. | | | 1873. | | | 1874. | | | 1875. | | | 1876. | | | 1877. | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Ordered to find security for good behaviour. | Ordered to keep the peace. | Imprisoned in default. | Ordered to find security for good behaviour. | Ordered to keep the peace. | Imprisoned in default. | Ordered to find security for good behaviour. | Ordered to keep the peace. | Imprisoned in default. | Ordered to find security for good behaviour. | Ordered to keep the peace. | Imprisoned in default. | Ordered to find security for good behaviour. | Ordered to keep the peace. | Imprisoned in default. | Ordered to find security for good behaviour. | Ordered to keep the peace. | Imprisoned in default. |
| Sahâranpur | 22 | 124 | 9 | 79 | 94 | 40 | 56 | 12 | 30 | 59 | 5 | 10 | 35 | 5 | 19 | ... | ... | ... |
| Muzaffarnagar | 15 | 28 | 11 | 31 | 34 | 20 | 40 | 54 | 38 | 19 | ... | 8 | 42 | ... | 33 | ... | ... | ... |
| Dehra Dún | 10 | 20 | 1 | 7 | 4 | 6 | 3 | ... | 3 | ... | 4 | ... | ... | 10 | ... | ... | ... | ... |
| Meerut | 59 | 94 | 162 | 148 | ... | 127 | 214 | 24 | ... | 36 | 33 | 170 | 45 | 35 | 20 | 65 | 58 | ... |
| Bulandshahr | 13 | ... | 8 | 55 | ... | 40 | 184 | 5 | ... | 27 | 7 | 18 | 18 | 23 | 19 | 51 | 10 | 30 |
| Aligarh | 17 | 3 | 16 | 99 | 57 | 86 | 38 | 78 | 67 | 101 | 50 | 77 | 76 | 17 | 57 | ... | ... | ... |
| Etah | 42 | 61 | 8 | 79 | 35 | 52 | 106 | 16 | 73 | 20 | ... | 14 | 21 | ... | 15 | ... | ... | ... |
| Moradabad | 38 | 379 | 34 | 38 | 326 | 14 | 81 | 81 | 28 | 146 | 65 | 94 | 83 | 64 | 46 | 63 | 35 | 65 |
| Bijnor | 102 | 59 | 39 | 26 | 7 | 14 | 64 | 12 | 23 | 76 | 22 | 21 | 90 | 38 | 23 | 30 | 31 | 44 |
| Bareilly | 142 | 41 | 142 | 96 | 58 | 95 | 104 | 51 | 88 | 137 | 16 | 89 | 110 | 12 | 95 | 158 | 29 | ... |
| Budaun | 41 | 261 | 14 | 96 | 55 | 62 | 121 | 16 | 91 | 150 | 67 | 109 | 62 | 54 | 45 | 59 | 60 | ... |
| Shâhjahânpur | 40 | 75 | 24 | 31 | 251 | 19 | 28 | 388 | 40 | 43 | 261 | 12 | 57 | 272 | 32 | 43 | 108 | 27 |
| Agra | 47 | 9 | 31 | 51 | 5 | 45 | 52 | 1 | 41 | 81 | 31 | 67 | 41 | 9 | 13 | ... | ... | ... |
| Muttra | 26 | ... | 5 | 23 | ... | 17 | 22 | ... | 10 | 23 | 18 | 10 | 25 | 1 | 15 | ... | ... | ... |
| Farukhabad | 67 | 250 | 86 | 48 | 321 | 28 | 85 | 237 | 108 | 123 | 24 | 97 | 54 | 55 | 109 | 44 | 52 | 86 |
| Mainpuri | 13 | 83 | 9 | 53 | 15 | 20 | ... | 25 | 8 | 26 | 32 | 19 | 9 | 23 | 7 | ... | ... | ... |
| Etáwah | 33 | 17 | 26 | 54 | ... | 33 | 116 | 104 | 90 | 112 | 8 | 95 | 36 | 1 | 25 | ... | ... | ... |
| Cawnpore | 28 | 8 | 18 | 88 | 2 | 28 | 165 | 13 | 34 | 212 | 39 | 251 | 78 | 1 | 73 | 30 | 10 | ... |
| Fatehpur | 8 | 97 | 6 | 8 | 146 | 6 | 25 | 10 | 21 | 14 | 10 | 24 | 23 | ... | 9 | 13 | 3 | ... |
| Bánda | 16 | 45 | 16 | 25 | 23 | 25 | 16 | 48 | 64 | 29 | 118 | 147 | 5 | 117 | 9 | 8 | 120 | 6 |
| Hamírpur | 9 | 35 | 11 | 9 | 50 | 8 | 14 | 22 | 12 | 32 | 23 | 25 | 60 | 20 | 5 | 32 | 55 | 27 |
| Allahabad | 55 | 34 | 46 | 33 | 87 | 52 | 34 | 45 | 40 | 136 | 25 | 139 | 96 | 26 | 90 | 50 | 37 | 42 |
| Gorakhpur | 121 | ... | 117 | 127 | 14 | 124 | 134 | 4 | 108 | 162 | 35 | 137 | 268 | 61 | 233 | ... | ... | ... |
| Basti | 12 | 5 | 6 | 25 | 6 | 22 | 34 | 5 | 28 | 21 | 11 | 19 | 30 | 4 | 17 | ... | ... | ... |
| Azamgarh | 18 | 27 | 12 | 88 | 32 | 52 | 69 | 54 | 52 | 166 | 36 | 78 | 84 | 76 | 50 | 44 | 149 | 23 |
| Jaunpur | 50 | 11 | 40 | 38 | 6 | 2 | 72 | 2 | 4 | 49 | 14 | 40 | 37 | 19 | 34 | 43 | 29 | 42 |
| Mirzapur | 82 | 103 | 63 | 58 | 109 | 67 | 57 | 31 | 3 | 83 | 73 | 88 | 89 | 105 | 85 | 76 | 50 | 61 |
| Benares | 20 | 104 | 1 | 44 | 93 | 37 | 50 | 74 | 39 | 23 | 11 | 22 | 32 | 49 | 38 | 40 | 13 | 33 |
| Ghâzipur | 66 | 108 | 56 | 77 | 83 | 59 | 126 | 38 | 73 | 137 | 67 | 66 | 147 | 101 | 102 | 45 | 93 | 31 |
| Kumaun | 17 | 20 | 5 | 12 | 7 | 5 | 17 | 23 | ... | 36 | 33 | 12 | 14 | 41 | 12 | ... | ... | ... |
| Garhwál | 4 | 19 | 1 | 1 | ... | ... | 7 | ... | ... | 1 | ... | 1 | 2 | 4 | ... | ... | ... | ... |
| Jhánsi | 14 | 54 | 13 | 13 | 3 | 13 | 29 | 12 | 24 | 19 | 7 | 16 | 1 | ... | ... | ... | ... | ... |
| Jalaun | 2 | ... | 2 | 9 | 4 | 3 | 5 | 8 | 7 | 11 | 8 | ... | 12 | 8 | 18 | ... | ... | ... |
| Lalitpur | 4 | ... | 4 | 15 | ... | 14 | 34 | ... | 8 | 17 | ... | 13 | 6 | 3 | 6 | ... | ... | ... |
| Tarai | ... | ... | ... | ... | ... | ... | ... | ... | ... | 24 | 5 | 20 | 45 | 2 | 30 | ... | ... | ... |
| Total | 1,253 | 2,174 | 1,042 | 1,683 | 1,927 | 1,235 | 2,202 | 1,493 | 1,255 | 2,351 | 1,158 | 2,008 | 1,779 | 1,256 | 1,384 | | | |
| Also ordered to enter into recognizance | 1,810 | | | 2,276 | | | 2,600 | | | 3,115 | | | 3,044 | | | | | |

J. CLARKE,
*Assistant Registrar.*

Remarks recorded by the Magistrate of Mainpuri in his report on the Administration of Criminal Justice during the year 1875.

I have retained all charges against police officers, and also all cases where persons suspected of bad livelihood were called on to give security, as I found that the extensive powers given under the law against suspected persons were in my judgment much too freely used.

I cannot but think that this power is one which should be exercised with great circumspection.

It is the ready resort of inefficient or lazy police, and its tendency is to create a profound dread of the police, not only among the predatory classes, but also among the most peaceable and industrious. It is a very difficult thing for a man to disprove a charge of this kind, and it is often a very difficult thing, even for a respectable man, to find persons willing and able to give security for him. I am fully alive to the highly beneficial effect of a resort to the provisions of this law against such persons as wealthy fences or dangerous and notorious leaders or robbers; but the constant application of police officers, who have failed to trace a theft or burglary, to be allowed to send up the accused for trial as *badmashes,* should, I think, be generally discountenanced.

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From Lepel Griffin, Esq., Secretary to Government, Punjab and its Dependencies, to the Secretary to the Government of India, Home, Revenue and Agricultural Department,—No. 1087C., dated 20th October, 1879.

I am directed to reply to your letter No. 3-222, of the 16th February 1878, forwarding certain correspondence on the subject of those provisions of the Criminal Procedure Code which empower Magistrates to require persons to furnish security for good behaviour.

2. The Lieutenant-Governor of Bengal—whose opinions were stated in an extract forwarded from the Administration Report of the Police Department of the Lower Provinces for the year 1876; in the Circular of the Officiating Secretary to the Government of Bengal in the Judicial Department, No. 56, dated 22nd August 1877; and in his Secretary's letter to your address, No. 416, of the 23rd January 1878—expressed his belief that the powers conferred upon District Magistrates under chapter 38 of Act X of 1872, had been greatly abused; and you requested that an early report might be submitted on the working of the law in the Punjab. The Judges of the Chief Court were accordingly addressed, and their replies, together with the opinions of the officers consulted by them, Commissioners, District Officers, and Police Officers addressed through the Inspector-General of Police, are herewith forwarded with the letter

from the Registrar of the Chief Court, No. 316, dated 7th February last.

3. I am to express regret that the case has so long remained undisposed of. The delay in printing the mass of correspondence and statements received from the Chief Court in February last is alone due to the great pressure of political work, which has altogether overtaxed the strength of the Government Press, and which is the only, and it is trusted that it may be accepted as a sufficient, reason for the delay which has occurred in printing. The statistics collected by the Chief Court were obtained with great difficulty, and after repeated references to districts, and they cannot now be considered more than approximately accurate, and do not, in all instances, agree with those furnished by the Police Department. The discrepancies which now exist between the figures forwarded by the Chief Court, the Police Department, and the Annual Criminal Reports, it would be impossible to reconcile without sending the statements back to District Officers, which would cause still further delay. Sir Robert Egerton, however, does not consider that the discrepancies are such as to materially affect the question at issue, which is—whether the provisions of the Procedure Code under discussion have, in the Punjab, worked well or ill; whether they require modification; and whether greater latitude of appeal should be allowed.

4. Before expressing the opinion of the Lieutenant-Governor upon the questions referred, I am first to quote the remarks which have been recorded by this Government during the past few years, on the subject of the exactment of security from bad characters. In the Review of the Criminal Justice Report for 1873, published as the Proceedings of this Government in the Home Department, No. 2023, dated 26th May 1874, the following remarks are found:—

"The decrease of non-bailable offences, and especially the crime of murder, His Honour observes, is attributed by the Judges of the Chief Court in part to the infliction of more deterrent sentences on heinous and habitual offenders, and the more rigorous enforcement of the law empowering Magistrates to exact security from doubtful characters, to which the special attention of the District Officers was called last year. His Honour is further glad to observe that, while the law has been vigourously enforced, it has been enforced, on the whole, with great care and judgment, and that Magistrates seem fully alive to the fact that the power of exacting security for the good behaviour, which the Legislature has placed in their hands, may, if carelessly or rashly exercised, be the means of great oppression.

"Mr. Davies trusts that the well-regulated energy which has marked the magisterial administration of the Province during the past year will not be relaxed; that heinous and habitual offenders will continue to receive adequate punishment, increasing in severity with each new offence; and that the bad character may still feel that he is ceaselessly watched. At the same time, His Honour concurs in the opinion expressed by the Judges at page 37 of the Report, that no greater facility should be given for the working of the law than is already provided, and that in this view the suggestion of the Deputy Commissioner of Muzaffargarh, that the English memorandum required in such cases be dispensed with, is inadmissible."

5. The Review of the Criminal Justice Report for 1874, in the proceedings of this Government, No. 1739 of the 1st May 1875, contains the following remarks:—

"The preventive jurisdiction of the Courts in regard to taking security from bad characters has also continued to be exercised within many districts with vigour, and with the best results; in the districts of the Lahore Division, especially, where it was worked with great energy and upon a concerted system, it was followed by a marked decrease of offences against property. At the same time, the Lieutenant-Governor is glad to note the testimony borne in the report, to the fact that the instructions of the Government and the Chief Court, in reference to this class of cases, have been kept in mind, and the greatest care taken to prevent abuse of the provisions of the law."

6. The following observations were recorded by the Lieutenant-Governor in the Review of the Criminal Report for 1875,—*vide* Proceedings of this Government in the Home Department, No. 1846, for May 1876:—

"On one subject Sir Henry Davies wishes to record his special acknowledgments to the Judges. He has much satisfaction in perceiving that they have devoted great attention to the procedure of District Officers under chapter 38 of the Code of Criminal Procedure, relating to security for good behaviour, and that they have instituted enquiries regarding the number of persons in prison in default of security. Of the instructions issued against fixing the amount of the security so high as to be beyond the reasonable means of the person from whom security is demanded, His Honour strongly approves. Purposely to fix the security so high as to keep the suspected persons in prison is to distort a salutary law with the means of committing injustice. The object to be aimed at has been rightly defined by the Chief Court; and except those persons who are so notoriously bad that no one will furnish security for them, none should remain in jail."

7. The Review of the Police Report for 1876, in the Proceedings of this Government for December 1877, No. 4856, observed as follows:—

"The statement showing the number of bad characters on security during the past five years gives a decrease of 1,326 cases from the pre-

ceding year, and a much larger decrease as compared with the figures of 1873-74. The increase in past years was, to a great extent, due to the energetic measures which were taken in the Lahore District to register and place on security persons who were known to the District Officer and the Police to be habitual offenders. These exertions seem, in the year under review, to have somewhat diminished, as the number of securities is less than half of those of 1873 and 1874. It may be, however, that bad characters, to avoid the energetic measures pursued against them in the Lahore District, have migrated elsewhere; and the Lieutenant-Governor would deprecate any endeavour to use the means which the law places in the hands of the District Officer for the control of bad characters without extreme care and consideration. At the same time, he believes that offences contained in classes III and IV, which are the less heinous crimes against person and property, are those which are most immediately affected by action taken under the rules for bad livelihood. He considers that the danger of innocent and respectable persons being arrested as bad characters is much less than that of persons of bad character being improperly allowed to escape, and he trusts that Deputy Commissioners will not relax their efforts to detect and place on security persons known to be of criminal habits or habitual offenders."

8. The Review of the Punjab Criminal Justice Report for 1877, in the Home Proceedings of this Government for June 1878, No. 2301, contains the following remarks:—

" Of the total number of persons from whom security for good behaviour was demanded under chapter 38 of the Criminal Procedure Code, 23 per cent. were imprisoned in default; the proportion in 1876 having been 28 per cent. The Lieutenant-Governor trusts that the diminution is due to the strict observance of the orders which require the amount of security to be within the means of the persons from whom it is demanded. There is no statement in the report showing the number of cases under this chapter for each district, and His Honour is therefore unable to examine the relations between the cases of security for good behaviour and the number of cases of house-breaking and house-trespass, with which, he thinks, the exercise of this jurisdiction has a close connection. In paragraph 22 the Judges remark that about 80 per cent. of the total number of persons who committed burglarious attacks upon house property during the year escaped punishment, and that this result proves that house-breaking is a crime with which the police are at present unable to cope. Offences of this class are, the Lieutenant-Governor believes, in the great majority of cases, commited by old offenders, and not by young hands. Experience, he thinks, has shown that burglarious offences diminish greatly when active measures are taken for placing persons of known bad character upon security for good behaviour. It is not necessary that these measures should be oppressive, but His Honour thinks that they should not be left to the police only. The Deputy Commissioner should use the headmen of villages, and, during his tour in the district, should enquire who the persons of notoriously bad character are, and should place them upon security, making the

amount of the security bond proportional to the means of the accused person. The Judges have recently called for detailed information showing how the law on this subject has worked for the last three years, and the Lieutenant-Governor will await the submission of this report before stating his final conclusions. But in particular, His Honour would be glad to be informed of the number of persons on security for good behaviour in the districts noted in paragraph 11 of the report, where the offences of lurking house-trespass and house-breaking were conspicuous during the year. He further notes that, in paragraph 22, the increase of non-bailable cases of house-trespass and house-breaking is stated to be marked in the Sialkot and Kangra Districts, whereas it appears from paragraph 110 of the report that in these two districts the numbers called upon to furnish security for good behaviour were respectively 108 and 27. These numbers are decidedly small, and in so far as the state of crime of this description in these districts is concerned, the remarks above recorded on the connection between these professional offences and the due exercise of this preventive jurisdiction, seem to be borne out."

9. The Review of the Police Report for the same year remarked as follows:—

"The surveillance of bad characters, and the demand of security from them, is again commended to the earnest attention of both Magistrates and Police Officers. Those provisions of the Code which ensure the due protection of society against suspected and notorious, though perhaps unconvicted, criminals, are of great importance; and although the Lieutenant-Governor is aware that elsewhere, in India, their enforcement has been regarded with suspicion, yet in them is still to be found the simplest and most effectual method of preventing crime; while if District Officers do their duty, if they constantly and carefully scrutinised the police rolls of bad characters, and give full opportunity for recorded criminals to retrieve their character and remove their names from the list, the strict enforcement of the security sections will be of the utmost advantage. If security is taken from well-ascertained bad characters, and the sureties are persons of some means and of good character, the measure must tend to decrease the crime of house-breaking. If, however, the sureties accepted are persons of similar character to the accused, the only effect will be to produce a confederacy for the purpose of crime with mutual concealment. Much of the value of bad livelihood prosecutions depends on their being conducted at, or near, the villages of the accused and before experienced Magistrates. From a recent correspondence it would appear that a large number of bad characters were imprisoned for a few days, whilst enquiry was made into the means of their sureties. If proceedings are held in the locality of the villages of the persons affected, there can be no need of such a procedure, as abundance of evidence will be forthcoming on the spot. The police returns should show the number of cases in which security for good behaviour was forfeited and payment enforced."

10. In the Review of the Criminal Justice Report for 1878, in the Proceedings of this Government, Home Depart-

ment, No. 2937 of the 9th August 1879, it is recorded in the 16th paragraph as follows :—

" *Para.* 16.—The chapter on preventive jurisdiction is as interesting as the subject is important. In the remarks conveyed last year, it was pointed out that burglarious offences diminish greatly when active measures are taken for placing persons of known bad character upon security for good behaviour; that these measures should not be oppressive, nor left alone to the police, but that the Deputy Commissioner should himself, in communication with the headmen of villages, and during his cold-weather tours, ascertain who the persons of notoriously bad character are, placing them on security, and making the amount of security proportional to the means of the accused. So long as those sections of the Criminal Procedure Code regarding security to keep the peace, or for good behaviour, are worked with discretion, and the recommendations of the police are carefully scrutinised by the Deputy Commissioner, and accused persons are allowed ample opportunities both of establishing their characters and of obtaining release from the register when they have, by a uniform course of good conduct, shown themselves to be entitled to such consideration, the Lieutenant-Governor holds that they are the most valuable means of prevention which can be placed in the hands of the District Officer. In the observations recorded by the Judges on this point, the Lieutenant-Governor has only to express his concurrence."

11. Lastly, in the Review of the Police Report for last year, recorded during the present month, the opinion of the Lieutenant-Governor is given to the following effect :—

" The Lieutenant-Governor thoroughly concurs in the conclusions drawn at the end of the Inspector-General's 13th paragraph, as to the mode of working chapter 38 of the Code of Criminal Procedure. It is essential to the success of operations under the preventive jurisdiction above alluded to, not only that the bad characters for prosecution should be carefully selected, but that their sureties should be persons likely to influence them in the direction of an honest life. Persons who come within the provisions of the Criminal Tribes Act, or who are under security for good behaviour, have their liberty restricted for the public good, until they show by their conduct that they are able and willing to earn an honest livelihood. The decrease in prosecutions under this head is to be regretted; and the Lieutenant-Governor again urges upon District Officers the necessity of working the provisions of chapter 38 of the Criminal Procedure Code systematically and carefully. The bad characters of each district are well known in their own villages, and by investigating cases at or near the villages, in the presence of the headmen, the best results may be obtained."

12. It has been necessary to lay these extracts from the orders of this Government, passed during a series of years, before the Government of India, in order to show that, so far from Magistrates and Police Officers having been permitted to carelessly and apathetically use, or wilfully abuse,

these most important provisions of the criminal law, they have, year by year directly by the Government, through the Judges of the Chief Court, the Inspector-General of Police, and Commissioners of Divisions, been exhorted to carry out the law in the most careful and effective manner; while every precaution has been taken by the Government to prevent hardship, oppression, and abuse. The Lieutenant-Governor does not for one moment desire to say that chapter 38 of the Criminal Procedure Code, which leaves a large discretion in the hands of District Officers, has been uniformly worked to his entire satisfaction. Where Magistrates are found of every degree of energy and intelligence, it must happen that cases occur in which the innocent suffer, and the guilty go free; but, admitting this, the Honourable the Lieutenant-Governor would still assert, from long experience of the working of these provisions of the Procedure Code in this Province, and having himself carried them out, and having year by year noted the results obtained, that they are not generally abused, but are one of the most valuable, if not the most valuable, means for the prevention of crime which the Legislature has placed in the hands of the Executive.

13. The circular of the Officiating Secretary to the Government of Bengal states that "there has, to the Lieutenant-Governor's mind, clearly been a great abuse of the power conferred upon the police and Magistrates in respect of prosecutions for bad livelihood; for the intention of the law was certainly not that the police should be turned loose upon the country to prosecute and harass every one against whom there was the slightest ground for suspecting that his character was not altogether unobjectionable."

The paragraph following this quotation states that "the Lieutenant-Governor is of opinion that there is no greater indication of an inefficient, idle police, and a careless and inconsiderate magistracy, than the admission that crime cannot be checked without locking up, precisely as if they were convicted criminals, all persons of whom it is thought, or said by their enemies or neighbours, that they are persons who may possibly at some future time or another commit an offence." Sir Robert Egerton has no desire to question the applicability of these remarks to the Lower Provinces, and does not doubt but that the Lieutenant-Governor of Bengal was fully justified in the strong remarks upon the manner in which these provisions of the Criminal Procedure Code

have been worked in the territories which he administers. I am, however, to state, in the most emphatic manner, that these remarks would be altogether inapplicable to the Punjab; that the law here is not abused as in Bengal; and that there is no reason to believe that it is made a means of injustice and oppression.

14. The reason for this is easily found. In the first place, the inhabitants of the Punjab are an exceedingly manly and outspoken race; they do not tamely submit to police oppression, and if tyrannised over, and made the subject of false accusation and extortion, are accustomed to make their voices heard in an unmistakeable manner. Abuses have thus but small chance of remaining long undiscovered; and the natural independence of the people is their best protection against oppression. In the second place, the whole system of administration in the Punjab differs from that in Bengal. In this Province the necessities of revenue administration require, on the part of subordinate and superior officers of Government, an intimate acquaintance with the character, capabilities, headmen, and inhabitants of every village in a district or subdivision of a district; and compel the Deputy Commissioner to possess far larger and closer acquaintance with village life than, under the system of perpetual settlement, would seem to be possible in Bengal. The village lambardar or headman is bound, by the conditions on which his office (ordinarily a hereditary one) is conferred upon him and continued to his son, to act as the representative of Government within the limits of his village, not only in matters affecting the collection of Government revenue, but in those which concern the public peace and the prevention and detection of crime. The village constable, according to the immemorial custom of village communities in this Province, is the village servant, directly subject to the headman, and, like him, bound to report crime and notify offenders. The rules which this Government, with the sanction of the Government of India, have published regarding the conduct and duties of village watchmen, under Act IV of 1872, have been careful to respect in this matter the sentiment of the country, and to leave the communal system undisturbed.

15. No one who is cognizant of the manner of life of a Punjab village community, or who has been intimately associated with the people in their daily life, can for a moment believe that in an ordinary Punjab village there is

the smallest doubt in the minds of its inhabitants as to the conduct and character of any one of the residents. The whole village life is *en évidence;* it passes before the eyes of all, and each man knows the means and manner of livelihood of his neighbour. The lambardar or headman, to whom Government looks for active assistance in the repression of crime, and who would be removed from office should he be proved to be careless of that trust, looks to Government for its assistance in regard to such members of his village as, from their audacious or ruffianly character, he is himself unable adequately to control. Should the Deputy Commissioner visit his village, and observe to him that the percentage of crime is high, and that he will be held responsible for reducing it, the headman would at once say, "I admit this state of things, but there are A and B and C, regarding whom you must yourself take action; men who live well, and whose wives wear silver ornaments, and yet they never put a hand to the plough; who are absent from the village at night; and who, we know, make their livelihood by dishonest practices: these are the men who bring discredit on the village." Enquiry made on the spot, in the presence of neighbours, and possibly friends, must, by the simplest of exhaustive processes, prove the truth or falsehood of the story. The life of the suspect will have been known to all; every opportunity is given to him to prove, if possible, his innocence; to show that he has other means of livelihood than those known to his neighbours. If condemned, he is condemned by the concurrent testimony of those who know him; and while there may be, and doubtless are, many instances in which the guilty escape by bribing those who would otherwise be unfriendly witnesses, it is, under the Punjab communal system, a rare and difficult thing for an honest man or one of good repute, to be brought before the Magistrate and convicted under the provisions of chapter 38 of the Criminal Procedure Code. Even when he is brought before the Magistrate and convicted, it in no way follows that he is imprisoned.

From the statement of the Bengal Government, it would appear that, in that Province, it was the rule, and not, as here, the exception, to lock up those against whom accusations were brought. Every opportunity is, in the Punjab, given to an accused to clear his character before conviction; every facility is given him to produce sufficient security to warrant his release; generally the enquiry is held at or near the

village, and should the Magistrate consider it necessary to demand security, every facility is given for obtaining it, and it has been frequently impressed upon Magistrates that this security should not be pitched so high as to render it too difficult to obtain.

16. In the correspondence which accompanies this letter will be found many opinions, more or less important, and the Lieutenant-Governor would especially request the attention of the Government of India to that recorded by Mr. J. W. Smyth, Officiating Judge of the Chief Court, Lahore, on the 29th January, on the 10th page of the printed Proceedings. The procedure described in this memorandum is that followed by an unusually able, conscientious, and patient District Officer, who made the careful and effective working of the security sections of the Criminal Procedure Code his especial care. The Lieutenant-Governor does not pretend that in every district, and under all Deputy Commissioners, the Procedure Code is worked with equal care and success; but such defects in its working as undoubtedly exist are due to defects in the character of the officers who work it; are inseparable from all administration, and are not defects of the law as it exists. In this the Lieutenant-Governor would recommend no change; he does not desire in this Province that there should be an appeal to the Sessions Judge and High Courts from convictions under chapter 38 of Act X of 1872; for he does not believe that there has been, in the Punjab, anything to show that the present system requires amendment. The Magistrate of the District, the Deputy Commissioner, is, in this Province, the administrative unit, and to remove from him those powers which he alone can usefully exercise,—to destroy the finality of his order,—would be to weaken his hands, and to do more harm than good. Over his general proceedings in this as in other branches of administration, the Commissioner of the Division has been directed to exercise careful supervision, and the attention of Commissioners will again be directed to this subject, the importance of which the Honourable the Lieutenant-Governor trusts that the extracts which the first part of my letter contains, and the opinion subsequently recorded, will show to have been fully and constantly acknowledged by the Government of the Punjab.

17. The Lieutenant-Governor has no desire to divert attention from opinions which have been recorded in the accompanying papers adverse to those which have been here

expressed. The most important of these is probably that of Colonel C. A. MacMahon, Commissioner and Superintendent of the Hissar Division, a particularly energetic and good criminal Judge, and for whose views the Lieutenant-Governor entertains great respect. His letter will be found at page 125 of the printed annexures. The Lieutenant-Governor cannot, however, consider that on this occasion his opinion is either logical or sound. He declares that the law has not been overworked in his division, and that in those cases which he has examined, he does not think that he would have interfered had the law permitted an appeal to him; nor does he consider that there would be any advantage in modifying the law, so as to permit an appeal to the Sessions Court. He, however, seems to hold that chapter 38 of the Criminal Procedure Code is unworthy of a civilised Government; that evidence in the cases given under this chapter is generally unsatisfactory; and that there is no necessity for such a system in India. This conclusion appears to the Lieutenant-Governor to be somewhat inconsistent with the premises which allow that the law is not abused, and that there is no necessity for permitting an appeal. The argument, moreover, rests on a false assumption, inasmuch as it ignores the fact that chapter 38 of the Criminal Procedure Code was expressly framed to provide for a certain portion of the population of India,—namely, the criminal classes; and that just as the Criminal Tribes Act is framed and founded on the acknowledged fact that whole tribes in India obtain their living by crime, so section 38 of the Criminal Procedure Code is based upon the acknowledged fact that there is in each community a certain number who maintain themselves in the same manner. The circumstances of India are altogether different from those of England, and any analogy like that of Colonel MacMahon's based upon comparison with England is necessarily unsound, and calculated to mislead those who are unacquainted with the criminal classes of India.

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From C. L. TUPPER, Esq., Under-Secretary to Government, Punjab, to the Registrar, Chief Court, Punjab,—No. 100S, dated 22nd February, 1878.

I am desired to forward, for the favour of the opinion of the Judges, after consulting the Commissioners of Divisions, copy of a letter No. 3-222 of the 16th February, from the Officiating Secretary to the Government of India in the Home Department, with enclosures, on the

subject of the working of the law relative to furnishing security for good behaviour.

2. The Lieutenant-Governor wishes a return to be called for showing the number of prosecutions for bad livelihood during the three years ending with the 31st December last. The statement should be classified and the amount of security demanded with reference to each class of cases should be shown. It should also be stated under each class what was the number of persons imprisoned in default of security, and each Deputy Commissioner should briefly report the manner in which the investigations in these cases were conducted, showing whether local enquiry was made by the Magistrate and what kind of evidence was offered.

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No. 101S, dated 22nd February 1878.

Copy of the foregoing, together with copy of the enclosures, forwarded to the Inspector-General of Police, Punjab, for opinion as to the working of the law in the Punjab.

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From G. W. Rivaz, Esq., Registrar, Chief Court, Punjab, to the Secretary to Government, Punjab,—No. 316, dated Lahore, 7th February, 1879.

I am now directed, in compliance with the orders contained in your No. 100S., dated 22nd February last, to submit a return showing the number and results of prosecutions for bad livelihood in the Punjab during the years 1875, 1876, and 1877.

2. Copies of the minutes recorded by the Judges as to the working of the law in this Province, together with the opinions,* in original, furnished by Commissioners of Divisions, whom the Judges have consulted in accordance with His Honour's request, are also forwarded.

* The statements of the Rawalpindi Division were forwarded by the Commissioner without any remarks.

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Opinion by D. G. Barkley, Esq., Officiating Judge,—Dated 12th October 1878.

I have little to add to the opinion given by me as Deputy Commissioner of Delhi on the 22nd April last. It should, however, be noted that that opinion did not relate specially to the Delhi District, of which I had only held charge for a week when it was written.

The general result of the opinions given by Commissioners and other officers consulted by them is that, while there have undoubtedly been cases in which the law has been abused, there is no reason to think that any large number of our first class Magistrates neglect to make a sufficient investigation before determining that security ought to be required, or that many District Magistrates have given their countenance to such neglect or to oppressive proceedings. This is quite in accordance

with my own experience, though I know of cases to the contrary, and on one occasion, on taking charge of a district, found it necessary, after an enquiry into all the cases of persons in jail in default of security, called for by my predecessor, to order the release of a considerable number under section 511, Criminal Procedure Code; and in other cases, to reduce the amount of security demanded.

The information now collected does not include cases falling under section 504, Criminal Procedure Code, but these are much fewer than cases under section 505, and there is less risk of mistakes being made in regard to them.

The only districts in which security has been demanded from a very considerable number of persons during the three years reported upon are Lahore and Gujranwala, and in those cases it will be observed that the great majority of the persons called upon to furnish security have furnished it at once, and have undergone no imprisonment in default. In Lahore, for instance, of 1,341 persons required to furnish security in 1877, only 30 were imprisoned at all. This included 602 persons not previously convicted, of whom only 9 were imprisoned in default of furnishing security. In other districts security has been called for from a large numbers of persons in one year out of the three reported upon, and in these cases the same feature will generally be noticed. Thus, in Ferozepore in 1875, 771 persons were called upon for security, of whom only 81 were imprisoned in default; in Peshawar in 1877, 329 persons were called upon for security, of whom only 88 were imprisoned in default, and only 29 were detained in jail for more than a month; and in Amritsar in 1876, 376 persons were called upon for security, of whom 104 were imprisoned in default, and only 43 failed to furnish it within the first month. Other cases, however, are less favourable. Thus, in Kohat in 1875, 214 persons were called upon for security, and all were imprisoned in default, though 200 were able to furnish it within the first month; in Umballa, in 1877, 182 persons were called upon for security, of whom 104 were imprisoned for default, and 98 failed to furnish it within the first month; and in Delhi, in 1875, 277 persons were called upon for security, of whom 117 were imprisoned for default, and 87 failed to furnish it within the first month.

In districts where only a small number of persons were required to furnish security, they often failed to do so. In these cases, unless the average amount of security seems unduly large, it may be assumed that the majority of the persons called upon for security were of so bad reputation that no one could readily be found to bail them out. Karnal in 1875 and Gurdaspur and Rawalpindi in all three years afford good instances of this.

I observe that the Lieutenant-Governor of Bengal is of opinion that if proper care were taken by the police in sending up such cases, there should be little chance of acquittal. But there are undoubtedly cases in which the witnesses on whose information the police relies, are gained over before the case is tried, and I am afraid that in some cases the absence or small number of acquittance indicates want of care on the part of the Magistrates in trying the cases. Thus, in Amritsar, in all three years, every previously convicted person sent up by the police

under sections 505 and 506 was required to furnish security, the number of such persons being 85 in 1875, 270 in 1876, and 98 in 1877. So in Lahore, in 1876, of 529 previously convicted persons sent up, only 10 were acquitted; while in 1875, of 631 persons not previously convicted, only 10 were acquitted; and in 1877, of 625 such persons, only 23 were acquitted. And in Kohat in 1875, of 216 persons sent up for trial, only 7 of whom had been previously convicted, only 2 were acquitted.

It cannot fairly be assumed, even in the case of previously convicted persons, that the police never or hardly ever make mistake in sending up persons from whom they think that security should be taken; and in the case of persons not previously convicted, the risk of mistake is of course greater. In half the Kohat cases in 1875, the only evidence for the prosecution was that of the police.

I do not think that any advantage would be gained by altering the course of appeal in these cases. The Magistrate of the District often has means of learning whether a man may be released without furnishing security, without danger to society, which are not within the reach of the Sessions Judge. But when the Magistrate of the District has himself tried the case, I see no objection to an appeal to the Sessions Judge being allowed.

I do not agree with the opinion expressed by the Commissioner of Hissar that we could dispense with chapter 38 of the Criminal Procedure Code altogether, and his remarks, and the still stronger ones made by the Commissioner of Mooltan on the oppressive character of the law, are based upon the assumption that the Magistrates trying such cases will not enquire into the fact as carefully as they should do. It is, of course, as necessary in these as in other cases that Magistrates should strictly observe the law, and should satisfy themselves as to the nature and value of the evidence before coming to a decision; and if they neglect to do so, the fault rests with them, and not with the law.

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### Opinion by G. R. Elsmie, Esq., Judge.

I do not think that a strong case has been made out in the Punjab for an alteration of the law; at the same time I think it might be more satisfactory to allow a second appeal in certain of these cases to the Sessions Court. I am not aware of the special reasons which induced the Legislature, on the passing of Act X of 1872, to alter the law of appeal, but I am quite clear that it was advisable, on the general grounds of strengthening the hands of the Magistrate of the District and securing more uniformity in the treatment of these cases, that the first appeal should lie to the chief local Court, and that complete power of release, even without appeal, should be given to the local executive,—see section 511, Criminal Procedure Code. I am satisfied that it is possible for a careful Magistrate of the District to work the present law in such a manner as to prevent its abuse. At the same time it would perhaps be a satisfactory safeguard to allow a second appeal to the Sessions Court, as suggested by the Commissioner of Lahore, in cases in which persons ordered to furnish security have failed to do so within one month.

I entirely dissent from the view that this part of our criminal law should be abolished altogether. The system is thoroughly understood by the people, and its efficiency, as a means of restraining would-be professional thieves and such like persons, cannot for a moment be doubted. I have never heard two opinions on this subject from natives whom I have consulted. These returns show that during a space of 3 years 15,152 persons, or ·0028 per cent., out of a population of about 17½ millions, have been called upon to give security under sections 505 and 506, Criminal Procedure Code. Of these, 9,516, or 63 per cent., gave security at once; 2,549, or nearly 17 per cent., furnished security after having been imprisoned for less periods than one month, while the average term of imprisonment on default was only 2 months and 29 days.

I quite agree in the opinion expressed by Mr. Justice Barkley as Deputy Commissioner, Delhi, that every reasonable facility should be given to persons called upon to furnish security by permitting them to go to their villages to find sureties, &c. In the great majority of cases I believe this course might be permitted with impunity, and I would make a provision in the law permitting Magistrates to annex to their decisions a clause fixing a term not exceeding one month within which security should be filed on pain of a fresh warrant of arrest being issued.

In some few cases, such as might occur in Peshawar and Kohat, it would obviously be inexpedient to make use of this clause.

I think also that one of the suggestions of Colonel MacMahon, Commissioner of Hissar, might safely be adopted in regard to certain classes of crime,—*viz.*, that of allowing a Magistrate to tack on to his order for imprisonment an order calling on the accused to furnish security for good behaviour for a period not exceeding 1 year provided that the whole period of imprisonment *plus* the term for which security is demanded should not exceed 3 years.

This procedure would be analogous to that permitted by section 489, Criminal Procedure Code, in cases where persons are convicted of breaches of the peace, and it would probably have the effect of reducing in many cases the term of imprisonment which would ordinarily be awarded.

A similar provision might also be made for cases tried by Sessions Judges, and under section 36, Criminal Procedure Code, Sessions Judges might be authorised to order security for 3 years to be taken, and Magistrates acting under section 36 for 2 years.

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**Opinion by H. M. Plowden, Esq., Judge, dated 18th January, 1879.**

I am quite of the same opinion as my learned colleagues that the power to require security for good behaviour is a useful power, and has salutary effects in checking the commission of crime. It is a power which is no doubt open to abuse, but, upon the returns and opinions before me, it does not appear that it is used to inflict oppression, at any rate, to any considerable extent, in this Province.

Upon the question as to whether any alteration in the law is desirable in the matter of appeal, there is a good deal to be said on both sides of the question, and the opinions of Commissioners are very equally divided. Three Commissioners favour an appeal, at least, to the Sessions

Court (Delhi, Umballa, Mooltan); three deprecate any appeal, as tending to weaken the hands of the Magistrate of the District, or as useless (Commissioners, Hissar, Jullundur, and Amritsar). The Commissioner of Lahore proposes a qualified right of appeal by persons previously unconvicted, who have not found security within a month; while two Commissioners (Peshawar and Derajat) are neutral, and the Commissioner, Rawalpindi, expresses no opinion.

Having regard to these opinions, and to the fact that there is a power of revision in this Court under section 297, and of supervision of the working of the Magistrate of the District by Sessions Courts under section 295 of the Criminal Procedure Code, I do not think a case is made out calling for an alteration of the law, so far as this Province is concerned.

It does not clearly appear upon what grounds the Legislature took away the right of appeal that the former law conceded; and I am unable to discover by any returns in this office to what extent the provision of the law granting an appeal was made use of, and with what results in alteration of orders passed by Magistrates.

Looking at the question solely from the evidence afforded by the returns and the opinion officers, no change seems to me to be called for, so far as the Punjab in concerned.

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### Opinion by J. W. Smyth, Esq., Judge, dated 27th January 1879.

I was absent on leave when the replies to the reference from Government in regard to the working of chapter 38 of Act X of 1872 came under the consideration of the Chief Court, but as the subject is one in which I take much interest, I am unwilling to allow the papers to go on to Government without recording my opinion briefly on the general question.

I had much to do with the working of the above chapter of the Code some years ago when I was Deputy Commissioner of the Lahore District. Crimes against property had been gradually increasing in that district from year to year, and the police appeared to be unable to cope with them in the exercise of their ordinary powers. Under these circumstances I determined to try the effect of working the security sections of the Code on a systematic plan throughout the district. I was well aware that the measure was one which was liable to be converted into a great instrument of oppression, both on the part of the police, as a cloak for their shortcomings, and on the part of enemies of the accused, for the purpose of gratifying their personal animosity. I therefore retained the working of the law in my own hands at first, and for two cold seasons I marched about in all parts of the district taking up the cases and holding the trials close to the homes of the accused.

Two of the chief points to be kept in view in dealing with these cases are—*1st*, to take care as far as practicable that no one is convicted or even accused under the law in question unless he is really of notoriously bad livelihood; and *2ndly*, as it is not desirable to choke our jails with persons so convicted, to afford to them every reasonable facility for

furnishing the security demanded for their good behaviour. Both these objects are far more effectually attained by the Magistrates taking up the cases only while in camp and near the homes of the accused than by trying them at the head-quarters station. In the latter case he has to depend on such evidence as the police may choose to offer, and there is often a great reluctance on the part of independent and respectable persons to come to the head-quarters station, it may be far from their homes, to give evidence in these cases. Moreover, when the accused is convicted at the head-quarters station, perhaps at a great distance from his home, he is not in a position to produce sureties at once, and he is usually hurried off to jail without having had an opportunity to solicit or persuade his friends to become sureties for him. On the other hand, when the cases are taken up by the Magistrate when in camp, the zaildárs and lambardárs and other respectable residents of the locality come forward and give evidence, and as they give their evidence, not in the ordinary seclusion of a court, but openly and in the face of their assembled neighbours, there is a very strong guarantee that their statements are true and not actuated by private malice. If the trial ends in the conviction of the accused, he is in a position, near his home and in the midst of his friends, to furnish security at once. If he has no friends on the spot who consent to be his sureties, he is usually allowed, on furnishing bail for his appearance, to absent himself for a few days to make arrangements for furnishing security.

By working the system in this way I was able to obtain security from a very large number of persons without putting either them or their sureties, or the witnesses called on either side, to any great inconvenience; and, although I have not the figures now before me, I can state from recollection that only a very small proportion of the persons convicted—I think hardly more than a fractional percentage—were sent to jail by reason of their inability to furnish security.

As regards fixing the amount of security, while, on the one hand, care must be taken that it is substantial and sufficient to exercise a decidedly deterrent effect, on the other, it should not be excessive with reference to the social position or means of the accused.

The result of the measures taken at the time I speak of was decidedly beneficial in checking offences against property, and it was manifested, not only by the figures in the annual returns of crime, but by a sense of greater security against thefts and burglaries, which was felt throughout the district. The testimony of the people was unmistakeable on this point, and I had their full approval and cordial co-operation in the measures which I then took. The system of taking security from bad characters is one which the people fully appreciate and which is entirely in accordance with native ideas, and I am convinced that it is one which can be worked in the manner I have indicated without unnecessarily harassing the people, and, of course, without the abuses which appear to have resulted in Bengal and to have so justly incurred the censure of the Lieutenant-Governor of that Province. I am not aware that any such abuses have occurred in the Punjab, though the law has now been worked for several years on an extensive scale. I repeat, however, that I am fully sensible of the abuses to which the system of taking security is so

readily open, though I am at the same time of opinion that abuses to any large extent can hardly occur if the Magistrate of the District exercises the supervision which it is his duty to exercise over the proceedings of his subordinates.

This leads me to say that I should much regret to see the course of appeal altered in these cases, because the present practice by which the appeal from the orders of all other Magistrates in the District lies to the Magistrate of the District (section 267, Act X of 1872) enables the latter to exercise his supervising power much more effectually than if the appeal lay to the Sessions Judge. Besides, I think the Magistrate of the District is in a better position than a Sessions Judge for disposing of these cases satisfactorily. They are not cases which raise nice questions of law or puzzling questions of fact. The officer who has the largest local experience, and the most intimate acquaintance with the people of the district and the character of the locality as regards crime, is, in my opinion, the one who is best qualified to dispose of the appeals. Then, as regards the fact that no appeal is now allowed in cases in which the Magistrate of the District himself tries the accused and demands security, I think it is unnecessary to make any change in the present law. Confidence may well be placed in officers holding the position of a Magistrate of the District. They are usually officers of great experience and not likely to abuse their powers. It must be remembered, moreover, that it is competent to the Magistrate of the District at any time to release any prisoner confined under requisition of security for good behaviour.

As I do not think that a case has been made out for altering the law of appeal in these cases, and as I am strongly of opinion that an alteration of the law in the manner proposed would materially weaken the hands of the Magistrate of the District, I would leave the law as it at present stands.

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Opinion by C. R. Lindsay, Esq., Judge, dated 29th January 1879.

In my long experience in this Court I have found but few case where the law has been abused. I think the law has looked on the whole well.

As to appeal, I do not think there should be a second appeal,—*i. e.*, from the order of the Magistrate of the District on an appeal to his Court from the order of a subordinate Court, but I would allow one appeal from the order of the Magistrate of the District to the Sessions Court where such Magistrate took up the case in his original jurisdiction.

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*Classified Statement showing the number of persons prosecuted, convicted, the years 1875,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapters 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | DELHI. |
| | | | | | | Rs. |
| 1885 | Section 505 | Previously convicted . . | 91 | 81 | 81 | 98 |
| | | Not previously convicted . | 267 | 196 | 36 | 99 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . . | 82 | 69 | 69 | 61 |
| | | Not previously convicted . | 156 | 87 | 69 | 74 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted . . | 30 | 25 | 25 | 166* |
| | | Not previously convicted . | 189 | 156 | 30 | 81 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | .. | ... | ... |
| TOTAL. | Section 505 | Previously convicted . . | 203 | 175 | 175 | 108 |
| | | Not previously convicted . | 612 | 439 | 135 | 84 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| | | GRAND TOTAL . . | 815 | 614 | 310 | 96 |

* Seven men were called on to furnish security above Rs. 400. This has brought up the average.

*and imprisoned for bad livelihood in the Districts of the Punjab during 1876, and 1877.*

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| | Days. | | |
| 61 | 82 | 45·4 | 1875. One hundred and one cases were disposed of by Magistrates in camp and 167 at the Sadr. 1876. Seventy-two cases were disposed of in camp and 166 at the Sadr. 1877. One hundred and forty-six cases were disposed of in camp and 73 at the Sadr. The large number of cases disposed of at the Sadr in 1876 is due to the Delhi Imperial Assemblage, a large number of suspicious-looking strangers having been placed on security during the months preceding the Assemblage. |
| 26 | 33 | | |
| ... | ... | | |
| ... | ... | | |
| 46 | 71 | 25·7 | The Deputy Commissioner examined a number of cases tried in 1875, 1876, and 1877. The convictions appeared clearly right in all, although the procedure appeared in some cases somewhat summary and the record meagre. |
| 77 | 86 | | |
| ... | ... | | |
| ... | ... | | |
| 23 | 87 | 29·7 | The witnesses for the prosecution are generally the lambardárs and chaukidárs of the village and neighbourhood. The status of witnesses for the defence is seldom recorded. |
| 17 | 17 | | |
| ... | ... | | |
| ... | ... | | |
| 130 | 80 | 83·6 | |
| 120 | 45 | | |
| ... | ... | | |
| ... | ... | | |
| 250 | 62 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Year. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | GUR |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted | 18 | 14 | 12 | 125 |
| | | Not previously convicted | 44 | 22 | 20 | 122 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted | 22 | 11 | 9 | 59 |
| | | Not previously convicted | 27 | 11 | 11 | 159 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted | 8 | 4 | 4 | 125 |
| | | Not previously convicted | 20 | 7 | 6 | 171 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| Total. | Section 505 | Previously convicted | 48 | 29 | 25 | 103 |
| | | Not previously convicted | 91 | 40 | 37 | 151 |
| | Section 505 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| | | Grand Total | 139 | 69 | 62 | 127 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportions of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| GAON. | | | |
| | Ms. Ds. | | |
| 11 | 10 15 | 5·2 | All these cases were tried at the Sadr. None in camp. Convictions were obtained chiefly on the evidence of lambardárs, to the effect that the accused were by general repute bad characters or notorious thieves, or receivers of stolen property, or that such characters resort to their houses, or that they are habitual offenders. All were tried on reference from the Police. |
| 18 | 7 9 | | |
| ... | ... | | |
| ... | ... | | |
| 9 | 8 5 | 3·2 | |
| 9 | 9 28 | | |
| ... | ... | | |
| ... | ... | | |
| 3 | 7 18 | 1·6 | |
| 5 | 6 8 | | |
| ... | ... | | |
| ... | ... | | |
| 23 | 8 22 | 3·3 | |
| 32 | 7 25 | | |
| ... | ... | | |
| ... | ... | | |
| 55 | 8 9 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Year. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | KAR |
| | | | | | | Rs. A. P. |
| 1875 | Section 505 | Previously convicted . . | 29 | 20 | 20 | 125 0 0 |
| | | Not previously convicted . | 46 | 30 | 27 | 94 0 0 |
| | Section 506 | Previously convicted . . | 1 | 1 | 1 | 400 0 0 |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . . | 79 | 71 | 50 | 173 0 0 |
| | | Not previously convicted . | 62 | 49 | 26 | 175 0 0 |
| | Section 506 | Previously convicted . . | 17 | 17 | 10 | 306 0 0 |
| | | Not previously convicted . | 2 | 2 | ... | 275 0 0 |
| 1877 | Section 505 | Previously convicted . . | 80 | 73 | 35 | 203 0 0 |
| | | Not previously convicted . | 112 | 85 | 13 | 206 0 0 |
| | Section 506 | Previously convicted . . | 9 | 9 | 4 | 300 0 0 |
| | | Not previously convicted . | 5 | 5 | 3 | 380 0 0 |
| Total. | Section 505 | Previously convicted . . | 188 | 164 | 105 | 167 0 0 |
| | | Not previously convicted . | 220 | 164 | 66 | 158 5 4 |
| | Section 506 | Previously convicted . . | 27 | 27 | 15 | 335 5 4 |
| | | Not previously convicted . | 7 | 7 | 3 | 327 8 0 |
| | | Grand Total . | 442 | 362 | 189 | 239 0 0 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| NAL. | | | |
| | Days. | | |
| 15 | 216 | 8·3 | In 1875 cases were almost all tried at the Sadr, while in 1876 and 1877 about 40 per cent. of the enquiries were made on the spot by officers on tour. It seems to be the practice of the police here not to send up a case unless they can get the headmen or other persons of almost equal standing to give evidence against the accused. With some exceptions on the part of some officers, too ready apparently to believe everything against the accused, and careless of preparing a satisfactory record, the investigations have been satisfactorily conducted and the evidence such as was required to sustain a conviction. |
| 18 | 137 | | |
| 1 | 332 | | |
| ... | ... | | |
| 30 | 88 | | |
| 19 | 154 | 22·8 | I usually find the few cases that are appealed as satisfactory as other cases appealed. |
| 10 | 93 | | |
| ... | ... | | |
| 23 | 124 | 28·2 | Two months I examined the cases of those detained in jail, 21 in number, and I thought proper to release 1 under section 511, Criminal Procedure Code. In the other cases I saw no ground for interference, they being mostly cases of men several times convicted, who were still bad characters by repute. |
| 8 | 67 | | |
| 2 | 29 | | |
| 2 | 34 | | |
| 68 | 142 | 19·8 | |
| 45 | 119 | | |
| 13 | 151 | | |
| 2 | 11 | | |
| 128 | 106 | | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | HIS |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . . | 101 | 84 | 76 | 50 |
| | | Not previously convicted . | 43 | 32 | 31 | 59 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . . | 28 | 26 | 25 | 66 |
| | | Not previously convicted . | 32 | 30 | 28 | 55 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted . . | 57 | 52 | 46 | 70 |
| | | Not previously convicted . | 55 | 47 | 45 | 50 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| TOTAL. | Section 505 | Previously convicted . . | 186 | 162 | 147 | 62 |
| | | Not previously convicted . | 130 | 109 | 104 | 54 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| | | GRAND TOTAL . | 316 | 271 | 251 | 58 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| SAR. | | | |
| | Days. | | |
| 13 | 26 | | |
| 4 | 29 | 23·9 | |
| ... | ... | | |
| ... | ... | | |
| 8 | 73 | | |
| 2 | 18 | 11·6 | Out of 141 cases decided in 1875, 85 were tried on tour and 56 at head-quarters on report by the police. In 1876, 10 cases were tried on tour and 50 at head-quarters, and in 1877, 39 cases were investigated on tour and 73 at head-quarters. In every case the accused was confronted by the witnesses for the prosecution which consisted principally of the lambardárs, biswadars, and other influential residents of the same village, and in some instances the evidence of headmen of neighbouring villages was also taken. Cases taken up while on tour were investigated on the spot, and all trials for bad livelihood were conducted by the Deputy Commissioner and other Magistrates with full powers. |
| ... | ... | | |
| ... | ... | | |
| 11 | 48 | | |
| 12 | 35 | 20·6 | |
| ... | ... | | |
| ... | ... | | |
| 32 | 49 | | |
| 18 | 27 | 18·7 | |
| ... | ... | | |
| ... | ... | | |
| 50 | 38 | | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | ROH |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted | 46 | 44 | 28 | 173 |
| | | Not previously convicted | 80 | 67 | 45 | 258 |
| | Section 506 | Previously convicted | 1 | 1 | ... | 100 |
| | | Not previously convicted | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted | 33 | 28 | 21 | 180 |
| | | Not previously convicted | 117 | 97 | 61 | 134 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | 1 | ... | ... | ... |
| 1877 | Section 505 | Previously convicted | 42 | 33 | 25 | 209 |
| | | Not previously convicted | 70 | 55 | 38 | 310 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| TOTAL. | Section 505 | Previously convicted | 121 | 105 | 74 | 187 |
| | | Not previously convicted | 267 | 219 | 144 | 234 |
| | Section 506 | Previously convicted | 1 | 1 | ... | 100 |
| | | Not previously convicted | 1 | ... | ... | ... |
| | | GRAND TOTAL | 390 | 325 | 218 | 174 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| TAK. | | | |
| | Days. | | |
| 18 | 170·5 | | No cases taken up locally on tour in 1875. |
| 19 | 65·4 | 20·9 | *Locally.* *Head-quarters.*<br>In 1876 . . . . 32 = 21 119 = 79 p. c.<br>In 1877 . . . . 14 = 12 98 = 87 p. c. |
| ... | ... | | |
| ... | ... | | *Manner of investigation.* |
| 10 | 104·2 | | *Locally.*—The Magistrate of the District is informed by the lambardárs that certain persons bear a bad character. The Court Inspector or other police officer, as the case may be, is ordered to produce them and witnesses. If the evidence confirms the complaint of the lambardárs, the accused is dealt with according to law. |
| 23 | 62·5 | 23·2 | |
| ... | ... | | |
| ... | ... | | *Head-quarters.*—The police having sent up a man the case is taken up by the Magistrate of the District, or Magistrate of the 1st Class, and the evidence of witnesses is recorded, and the accused dealt with according to law. |
| 12 | 107·2 | | |
| 8 | 39·3 | 16·3 | *Nature of Evidence.*—As a rule, that of the lambardárs and of banias of the village. Of constables who are acquainted with the character of the accused. When the accused is a bad character by repute, lambardárs of neighbouring villages have to appear as witnesses. |
| ... | ... | | |
| ... | ... | | |
| 40 | 127·3 | | |
| 50 | 55·9 | 20·1 | |
| ... | ... | | |
| ... | ... | | |
| 90 | 91·6 | | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | SIR |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted | 81 | 67 | 13 | 136 |
| | | Not previously convicted | 24 | 11 | 6 | 173 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted | 61 | 54 | 15 | 99 |
| | | Not previously convicted | 59 | 56 | 5 | 129 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted | 22 | 14 | 12 | 218 |
| | | Not previously convicted | 11 | 7 | 2 | 71 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| TOTAL | Section 505 | Previously convicted | 164 | 135 | 40 | 151 |
| | | Not previously convicted | 94 | 74 | 13 | 124 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| | | GRAND TOTAL | 258 | 209 | 53 | 137 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 |
|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. |
| SA. | | |
| | Days. | |
| 4 | 69 | |
| 1 | 17 | 37 |
| ... | ... | |
| ... | ... | |
| 5 | 45 | |
| 1 | 31 | 52·1 |
| ... | ... | |
| ... | ... | |
| 5 | 27 | |
| 1 | 183 | 9·9 |
| ... | ... | |
| ... | ... | |
| 14 | 47 | |
| 3 | 77 | 33 |
| ... | ... | |
| ... | ... | |
| 17 | 62 | |

11

REMARKS BY DEPUTY COMMISSIONERS.

Cases taken up by Magistrates are here stated :—

| Year. | Section of Criminal Procedure Code. | On tour. | On report of the Police. | Total. |
|---|---|---|---|---|
| In 1875 . | section 505 . | 60 | 31 | 91 |
| „ 1876 . | „ 505 . | 87 | 32 | 119 |
| „ 1877 . | „ 505 . | 20 | 9 | 29 |

The proprietors of villages in which persons previously convicted of any of the offences described in chapters 12 and 17 of the Indian Penal Code lived were generally called upon to state the mode of living of these persons, and when no satisfactory explanation was given and the persons themselves failed to give securities for good behaviour, they were found guilty of bad livelihood and imprisoned. In some cases evidence of respectable zamíndárs was also taken.

* In bad livelihood cases tried by officers on tour it seems to have been the practice not to give the accused any opportunity of producing evidence to good character.

Personally, I invariably call upon the defendant to name any witnesses he wishes to produce, and I adjourn the case to allow of their being summoned.

* Note.—The illegality of this practice has been pointed out to the Deputy Commissioner.

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | UM |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted | 40 | 25 | 22 | 166 |
| | | Not previously convicted | 14 | 10 | 8 | 125 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted | 120 | 83 | 60 | 116 |
| | | Not previously convicted | 48 | 32 | 29 | 88 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted | 178 | 147 | 80 | 89 |
| | | Not previously convicted | 80 | 35 | 24 | 69 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| TOTAL. | Section 505 | Previously convicted | 338 | 255 | 162 | 123 |
| | | Not previously convicted | 142 | 77 | 61 | 94 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| | | GRAND TOTAL | 480 | 332 | 223 | 109 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| BALLA. | | | |
| | M. D. | | |
| 20 | 9 21 | | Seven cases were tried on tour. |
| 6 | 8 2 | 3·3 | Three ditto ditto. |
| ... | ... | | |
| ... | ... | | |
| 58 | 4 7 | | Fourteen cases were tried on tour. |
| 25 | 5 6 | 11·1 | Six ditto ditto. |
| ... | ... | | |
| ... | ... | | |
| 76 | 3 28 | | Sixty cases were tried on tour. |
| 22 | 3 6 | 17·5 | Twenty-two ditto ditto. |
| ... | ... | | |
| ... | ... | | |
| 154 | 5 25 | | The evidence of lambardars of the villages of the accused, and when necessary, of neighbouring villages, also taken. |
| 53 | 5 14 | 10·6 | Previous conviction files inspected. Witnesses of accused for defence taken. Abstract of evidence duly written out by Magistrates as in substantive offences. |
| ... | ... | | |
| ... | ... | | |
| 207 | 5 19 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Year. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | LUDHI |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . . | 40 | 33 | 27 | 171 |
| | | Not previously convicted . | 50 | 25 | 18 | 168 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | .... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . . | 15 | 13 | 12 | 215 |
| | | Not previously convicted . | 35 | 25 | 23 | 140 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted . . | 19 | 16 | 15 | 216 |
| | | Not previously convicted . . | 32 | 25 | 22 | 162 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| Total. | Section 505 | Previously convicted . . | 74 | 62 | 54 | 200 |
| | | Not previously convicted . | 117 | 75 | 63 | 156 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . . | ... | ... | ... | ... |
| | | Grand Total . . | 199 | 137 | 117 | 178 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and* 1877—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| ANA. | | | |
| | Days. | | |
| 27 | 238 | | Four on tour and 28 at head-quarters. |
| 18 | 174 | 9·9 | |
| ... | ... | | |
| ... | ... | | |
| 12 | 319 | | Six on tour and 21 at head-quarters. |
| 23 | 188 | 6·5 | |
| ... | ... | | |
| ... | ... | | |
| 10 | 161 | | Five on tour and 25 at head-quarters. |
| 14 | 145 | 7 | Reports that the procedure is the same as that in other districts. The nature of the evidence adduced in cases of bad livelihood, which depend on the statement of respectable neighbours and headmen of villages, is in regard to their ostensibly idle life and bad character which creates the presumption that, where there are no means of subsistence, dishonesty must be their resort. |
| ... | ... | | |
| ... | ... | | |
| 49 | 239 | | |
| 55 | 169 | 7·8 | |
| ... | ... | | |
| ... | ... | | |
| 104 | ... | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | SIM |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted | 1 | 1 | 1 | 50 |
| | | Not previously convicted | ... | ... | ... | ... |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted | 2 | 2 | 2 | 100 |
| | | Not previously convicted | 7 | 7 | 2 | 113 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| TOTAL. | Section 505 | Previously convicted | 3 | 3 | 3 | 50 |
| | | Not previously convicted | 7 | 7 | 2 | 37 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| | | GRAND TOTAL | 10 | 10 | 5 | 43 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| LA. | Days. | | |
| 1 | 360 | | The whole of these cases were tried at Simla, the head-quarters of the district, except two cases at Kasauli. The investigations were conducted partly on the evidence of the police and partly on the evidence offered on behalf of the prosecution by employers and fellow-servants of the accused. The classes of persons brought to trial were khánsámas, bearers, sweepers, &c., servants of the residents and visitors of Simla, and were brought up for either being by repute thieves or bad characters. |
| ... | ... | 2·9 | |
| ... | ... | | |
| ... | ... | | |
| ... | ... | | |
| ... | ... | | |
| ... | ... | | |
| ... | ... | | |
| 2 | 180 | | |
| 2 | 180 | 26·5 | |
| ... | ... | | |
| ... | ... | | |
| 3 | 270 | | |
| 2 | 180 | 9·8 | |
| ... | ... | | |
| ... | ... | | |
| 5 | 225 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | JULLUN |
| | | | | | | Rs. A. P. |
| 1875 | Section 505 | Previously convicted . . | 20 | 14 | 6 | 107 0 0 |
| | | Not previously convicted . | 31 | 27 | 15 | 159 0 0 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . . | 7 | 5 | 5 | 110 0 0 |
| | | Not previously convicted . | 20 | 13 | 13 | 59 0 0 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted . . | 18 | 15 | 10 | 78 0 0 |
| | | Not previously convicted . | 33 | 20 | 22 | 93 0 0 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . . | ... | ... | ... | ... |
| TOTAL. | Section 505 | Previously convicted . . | 45 | 34 | 21 | 98 5 4 |
| | | Not previously convicted . | 84 | 68 | 50 | 103 10 8 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| | | GRAND TOTAL . . | 129 | 102 | 71 | 98 0 0 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| DHUR. | Days. | | |
| 6 | 303 | | |
| 10 | 146 | 5·2 | |
| ... | ... | | |
| ... | ... | | |
| 3 | 159 | | |
| 8 | 150 | 2·3 | |
| ... | ... | | |
| ... | ... | | |
| 8 | 158 | | |
| 16 | 172 | 5·4 | |
| ... | ... | | |
| ... | ... | | |
| 17 | 620 | | |
| 34 | 468 | 4·3 | |
| ... | ... | | |
| ... | ... | | |
| 51 | 544 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Year. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | **HOSHI** |
| | | | | | | Rs. A. P. |
| 1875 | Section 505 | Previously convicted | 52 | 52 | 32 | 184 0 0 |
| | | Not previously convicted | 54 | 32 | 20 | 155 0 0 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1873 | Section 505 | Previously convicted | 36 | 35 | 19 | 212 0 0 |
| | | Not previously convicted | 30 | 20 | 9 | 206 0 0 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted | 71 | 63 | 27 | 159 0 0 |
| | | Not previously convicted | 60 | 23 | 8 | 251 0 0 |
| | Section 506 | Previously convicted | 1 | ... | ... | ... |
| | | Not previously convicted | 1 | ... | ... | ... |
| Total | Section 505 | Previously convicted | 159 | 150 | 78 | 185 0 0 |
| | | Not previously convicted | 144 | 75 | 37 | 204 0 0 |
| | Section 506 | Previously convicted | 1 | ... | ... | ... |
| | | Not previously convicted | 1 | ... | ... | ... |
| | | Grand Total | 305 | 225 | 115 | 194 8 0 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | | 10 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | | Proportion of persons convicted of bad livelihood per 100,000 of population. |
| ARPUR. | | | |
| | Ms. | Ds. | |
| 12 | 8 | 10 | |
| 9 | 8 | 3 | 8·9 |
| ... | ... | | |
| ... | ... | | |
| 14 | 5 | 9 | |
| 2 | 6 | 7 | 5·9 |
| ... | ... | | |
| ... | ... | | |
| 9 | 7 | 11 | |
| 5 | 6 | 22 | 9·2 |
| ... | ... | | |
| ... | ... | | |
| 35 | 6 | 29 | |
| 16 | 21 | 2 | 8 |
| ... | ... | | |
| ... | ... | | |
| 51 | 7 | 1 | ... |

11

REMARKS BY DEPUTY COMMISSIONERS.

The cases taken up locally by Magistrate on tour and at head-quarters, respectively, during the 3 years are as under :—

| YEAR. | Number of cases taken up on tour. | Number of cases taken up at head-quarters. |
|---|---|---|
| 1875 . | 14 | 70 |
| 1876 . | 16 | 39 |
| 1877 . | 58 | 28 |

Deputy Commissioner has always made a point of directing the attention of Assistant Commissioners proceeding into camp to the question, and has himself made enquiries in various police jurisdictions visited, the station officers being directed to bring up cases where it was desirable that security should be demanded. This procedure has now resulted in the bad characters taking flight on the approach of a Magistrate, and it was common to hear at a tháná that the worst characters could not be brought up, for they had left their homes. Gives the advantages of hearing such cases in camp and details Deputy Commissioner's procedure in each case.

The witnesses sent up by the police are usually the lambardárs of the village where accused resides, or of neighbouring villages, zaildárs and other men of some position.

The evidence is always recorded in regular form, and witnesses named by the accused are generally or frequently heard.

A good many of the convictions are appealed to the Magistrate of the District, but very few appeals have been accepted.

*Classified Statement showing the number of persons prosecuted, convicted,*
*years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | KAN |
| | | | | | | Rs. A. P. |
| 1875 | Section 505 | Previously convicted . . | 4 | 2 | 2 | 50 0 0 |
| | | Not previously convicted . | ... | ... | ... | ... |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . . | 4 | 4 | 4 | 400 0 0 |
| | | Not previously convicted . | 5 | 5 | 3 | 180 0 0 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | 1 | ... | ... | ... |
| 1877 | Section 505 | Previously convicted . . | 8 | 6 | 6 | 100 0 0 |
| | | Not previously convicted . | 10 | 8 | 8 | 100 0 0 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| TOTAL | Section 505 | Previously convicted . . | 16 | 12 | 12 | 183 5 4 |
| | | Not previously convicted . | 15 | 13 | 11 | 93 5 4 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | 1 | ... | ... | ... |
| | | GRAND TOTAL . | 32 | 25 | 23 | 138 5 4 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| GRA. | | | |
| | Days. | | |
| 2 | 182 | | No cases were taken up locally by Magistrates on tour. All the cases with the exception of two or three were tried on report by the police at the head-quarters. The evidence of kotwáls, káiths, and other respectable people is obtained in course of prosecution, and the witnesses of the bad characters are also examined. This district is comparatively free of such characters, and the prosecutions generally showed influx into the district of Bengális, Sánsís, and other criminal tribes of the plains. |
| ... | ... | ·3 | |
| ... | ... | | |
| ... | ... | | |
| 4 | 309 | | |
| 3 | 403 | 1·2 | |
| ... | ... | | |
| ... | ... | | |
| 6 | 335 | | |
| 8 | 274 | 1·9 | |
| ... | ... | | |
| ... | ... | | |
| 12 | 275 | | |
| 11 | 338 | 1·1 | |
| ... | ... | | |
| ... | ... | | |
| 23 | 306 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted,*
*years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Year. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not he person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | AMRIT |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . . | 85 | 85 | 46 | 87 |
| | | Not previously convicted . | 96 | 68 | 35 | 46 |
| | Section 506 | Previously convicted . . | 1 | 1 | 1 | 200 |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . . | 268 | 268 | 59 | 75 |
| | | Not previously convicted . | 171 | 106 | 45 | 41 |
| | Section 506 | Previously convicted . . | 2 | 2 | ... | 200 |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted . . | 98 | 98 | 45 | 82 |
| | | Not previously convicted . | 101 | 52 | 39 | 33 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| Total | Section 505 | Previously convicted . . | 451 | 451 | 150 | 81 |
| | | Not previously convicted . | 368 | 225 | 119 | 40 |
| | Section 506 | Previously convicted . . | 3 | 3 | 1 | 200 |
| | | Not previously convicted . | ... | ... | ... | ... |
| | | Grand Total . | 822 | 680 | 270 | 107 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 |
|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. |
| SAR. | | |
| | Y. M. D. | |
| 34 | 0 7 18 | |
| 27 | 0 5 22 | |
| 1 | 2 0 0 | 14·2 |
| ... | ... | |
| 17 | 0 7 27 | |
| 26 | 0 4 3 | |
| | | 34·7 |
| ... | ... | |
| ... | ... | |
| 31 | 0 6 6 | |
| 24 | 0 5 13 | |
| | | 13·8 |
| ... | ... | |
| ... | ... | |
| 82 | 0 7 7 | |
| 77 | 0 5 2 | |
| | | 20·9 |
| 1 | 0 4 0 | |
| ... | 0 0 0 | |
| 160 | 0 5 13 | ... |

11

REMARKS BY DEPUTY COMMISSIONERS.

On a rough estimate it appears that, out of the total number of cases disposed of, 29½ per cent. were taken up on tour, and 70½ per cent. at head-quarters. Of course, city badmáshes were tried at the latter.

In all cases the persons were brought up by the police with a charge sheet, and the evidence generally offered for the prosecution were statements as to general character made by lambardárs or zamindárs and members of the committee of a minor municipality with the evidence of the zaildár, chaukidár, or a police officer; in the case of the city badmáshes two neighbours, a chaudri of the mohalla, and sometimes a police officer, were the witnesses. Former convictions were also proved, and witnesses were asked to name cases in which the person being tried has been suspected.

Now bad characters often keep out of the way when a Magistrate goes on tour, and lambardárs and others are afraid to give evidence in these cases for fear that the bad characters will revenge themselves on them by doing them some mischief. Several cases have occurred, especially on tour, in which the lambardárs have refused to repeat in court what they said to the police, either through fear or from having been bought off or talked over.

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | G | URDAS |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . | 51 | 49 | 45 | 82 |
| | | Not previously convicted . | 141 | 95 | 47 | 51 |
| | Section 506 | Previously convicted . . | ... | ... | .. | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . . | 60 | 52 | 41 | 90 |
| | | Not previously convicted . | 140 | 89 | 52 | 69 |
| | Section 506 | Previously convicted . . | 1 | 1 | 1 | 1,000 |
| | | Not previously convicted . | 1 | 1 | 1 | 2,000 |
| 1877 | Section 505 | Previously convicted . . | 18 | 12 | 12 | 81 |
| | | Not previously convicted . | 75 | 59 | 58 | 80 |
| | Section 506 | Previously convicted . . | ... | .. | ... | ... |
| | | Not previously convicted . | 1 | 1 | 1 | 200 |
| TOTAL | Section 505 | Previously convicted . . | 129 | 113 | 98 | 84 |
| | | Not previously convicted . | 356 | 243 | 157 | 66 |
| | Section 506 | Previously convicted . . | 1 | 1 | 1 | 1,000 |
| | | Not previously convicted . | 2 | 2 | 2 | 1,100 |
| | | GRAND TOTAL . | 488 | 359 | 258 | 562 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| **PUR.** | | | |
| | Days. | | |
| 37 | 99 | | About 70 per cent. of the cases were tried locally on tour and the rest at head-quarters. In almost all cases the prosecution was instituted on the application of the police. Every effort is made to obtain the most reliable evidence, so that there may not be a failure of justice. The method adopted during the camping season is to try cases on the spot in presence of a great crowd of people. Witnesses for both sides and the village officials are at hand, and after recording their evidence the case is disposed of. The accused is allowed a week's time to find the security demanded. |
| 18 | 73 | 21·9 | |
| ... | ... | | |
| ... | ... | | |
| 28 | 65 | | |
| 31 | 58 | 21·8 | |
| 1 | 535 | | |
| 1 | 269 | | |
| 12 | 81 | | |
| 42 | 93 | 10·9 | |
| ... | ... | | |
| 1 | 90 | | |
| 77 | 81 | | |
| 91 | 74 | 18·2 | |
| 1 | 535 | | |
| 2 | 179 | | |
| 171 | 217 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | SIAL |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . . | 36 | 30 | 18 | 118 |
| | | Not previously convicted . | 54 | 29 | 25 | 104 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . . | 25 | 18 | 12 | 172 |
| | | Not previously convicted . | 60 | 59 | 29 | 142 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted . . | 53 | 37 | 30 | 122 |
| | | Not previously convicted . | 76 | 62 | 32 | 132 |
| | Section 506 | Previously convicted . . | 1 | 1 | 1 | 300 |
| | | Not previously convicted . | ... | ... | ... | ... |
| TOTAL | Section 505 | Previously convicted . . | 114 | 85 | 60 | 137 |
| | | Not previously convicted . | 190 | 150 | 86 | 126 |
| | Section 506 | Previously convicted . . | 1 | 1 | 1 | 300 |
| | | Not previously convicted . | ... | ... | ... | ... |
| | | GRAND TOTAL . | 305 | 236 | 147 | 187 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| **KOTE.** | Days. | | |
| 12 | 304 | | In 1875, 23 persons were tried during tours of officers.<br>In 1876, 36 ditto ditto<br>In 1877, 1 person was ditto |
| 13 | 303 | 5·8 | Evidence as to character and bad livelihood was required and given by the residents of the accused's village, *viz.*, lambardárs, chaukidárs, shaukárs and other residents. Former convictions were either admitted by the accused or proven against them. |
| ... | ... | | |
| ... | ... | | |
| 8 | 281 | | Most of the cases were tried on report by the police. In only a few cases were the prosecutions originated by orders of a Magistrate, and then only when in the course of a trial it appeared that the accused should be prosecuted for bad livelihood. |
| 19 | 143 | 7·6 | |
| ... | ... | | |
| ... | ... | | |
| 19 | 343 | | |
| 22 | 206 | 9·9 | |
| 1 | 365 | | |
| ... | ... | | |
| 39 | 309 | | |
| 54 | 217 | 7·8 | |
| 1 | 365 | | |
| ... | ... | | |
| 94 | 297 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Year. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | LA |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted | 910 | 840 | 67 | 134 |
| | | Not previously convicted | 623 | 613 | 45 | 153 |
| | Section 506 | Previously convicted | 1 | 1 | 1 | 100 |
| | | Not previously convicted | 8 | 8 | 6 | 237 |
| 1876 | Section 505 | Previously convicted | 529 | 519 | 50 | 115 |
| | | Not previously convicted | 425 | 357 | 33 | 112 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | 1 | 1 | 1 | 400 |
| 1877 | Section 505 | Previously convicted | 1,053 | 828 | 21 | 145 |
| | | Not previously convicted | 624 | 601 | 9 | 141 |
| | Section 506 | Previously convicted | 1 | 1 | ... | 1,000 |
| | | Not previously convicted | 1 | 1 | ... | 300 |
| Total. | Section 505 | Previously convicted | 2,492 | 2,187 | 138 | 131 |
| | | Not previously convicted | 1,672 | 1,571 | 87 | 135 |
| | Section 506 | Previously convicted | 2 | 2 | 1 | 550 |
| | | Not previously convicted | 10 | 10 | 7 | 312 |
| | | Grand Total | 4,176 | 3,770 | 233 | 282 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| HORE. | Days. | | |
| 39 | 129 | | In 1875 there were 353 cases, of which 46 were tried at head-quarters on report of police, the remainder were tried on tour. |
| 25 | 125 | 185·1 | In 1876 there were 324 cases, of which 45 were brought up at the sadr, and the remainder on tour. |
| 1 | 730 | | In 1877, there were 582 cases, of which 53 were tried at the sadr, and the remainder on tour. |
| 5 | 373 | | As a rule, when cases of this nature are brought up at the sadr, the evidence for the prosecution and that for the defence is taken in the usual form, the witnesses for the prosecution being generally the zaildárs and influential zamíndárs. In cases tried on tour there has been less formality, and cases have been decided in a more summary fashion. Police evidence has been seldom taken. |
| 41 | 106 | | |
| 22 | 120 | 111·2 | |
| ... | ... | | |
| 1 | 1,095 | | |
| 18 | 187 | | |
| 8 | 183 | 181·2 | |
| ... | ... | | |
| ... | ... | | |
| 98 | 140 | | |
| 55 | 142 | 159·2 | |
| 1 | 243 | | |
| 6 | 489 | | |
| 160 | 253 | | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Year. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | G | UJRAN |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . | 209 | 184 | 17 | 101 |
| | | Not previously convicted . | 79 | 44 | ... | 45 |
| | Section 506 | Previously convicted . | 1 | 1 | 1 | 500 |
| | | Not previously convicted . | 1 | 1 | ... | 1,000 |
| 1876 | Section 505 | Previously convicted . | 433 | 418 | 64 | 89 |
| | | Not previously convicted . | 135 | 117 | ... | 58 |
| | Section 506 | Previously convicted . | ... | ... | ... | ... |
| | | Not previously convicted . | 2 | 2 | ... | 2,000 |
| 1877 | Section 505 | Previously convicted . | 788 | 771 | 81 | 62 |
| | | Not previously convicted . | 214 | 194 | ... | 38 |
| | Section 506 | Previously convicted . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| Total. | Section 505 | Previously convicted . | 1,430 | 1,373 | 162 | 84 |
| | | Not previously convicted . | 428 | 355 | ... | 47 |
| | Section 506 | Previously convicted . | 1 | 1 | 1 | 500 |
| | | Not previously convicted . | 3 | 3 | ... | 1,500 |
| | | Grand Total . | 1,862 | 1,732 | 163 | 532 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| WALA. | | | |
| | Y. M. D. | | |
| 17 | 0 6 25 | | During all these years, such cases were tried by Magistrates on report by police, whether on tour or at head-quarters, and the investigation was conducted by the examination of trustworthy persons, such as lambardárs and zaildárs, who generally came as witnesses, and on conviction, security was taken from the bad characters. In default of furnishing security within a fortnight they were imprisoned. |
| ... | ... | 41·8 | |
| 1 | 3 0 0 | | |
| ... | ... | | |
| 32 | 0 3 6 | | The figures of three different years represent thus :— 1875. Tour ..., Head-quarters 158; 1876. Tour 99, Head-quarters 224; 1877. Tour 306, Head-quarters 152. |
| ... | ... | 97·5 | |
| ... | ... | | |
| ... | ... | | |
| 38 | 0 3 3 | | |
| ... | ... | 175·3 | |
| ... | ... | | |
| ... | ... | | |
| 87 | 0 4 11 | | |
| ... | ... | 104·9 | |
| 1 | 3 0 0 | | |
| ... | ... | | |
| 88 | 1 8 5 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | FEROZE |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted | 509 | 509 | 52 | 75 |
| | | Not previously convicted | 271 | 262 | 29 | 75 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted | 92 | 72 | 6 | 75 |
| | | Not previously convicted | 119 | 100 | 20 | 75 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted | 16 | 16 | ... | 75 |
| | | Not previously convicted | 12 | 9 | 5 | 75 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| TOTAL. | Section 505 | Previously convicted | 617 | 597 | 58 | 75 |
| | | Not previously convicted | 402 | 371 | 54 | 75 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| | | GRAND TOTAL | 1,019 | 968 | 112 | 75 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| PORE. | | | |
| | M. D. | | |
| 52 | 9 17 | | In 1875, 771 cases were taken up locally by magistrates on tour, and 9 cases were tried at the head-quarters of the district on report by the police. In 1876, 196 cases were taken up locally by magistrates on tour, and 4 cases were tried at the head-quarters of the district on report by the police. In 1877, no cases were taken up locally by the magistrates on tour, and 21 cases were tried at the head-quarters of the district on report by the police. |
| 29 | 10 14 | 140·4 | |
| ... | ... | | |
| ... | ... | | |
| 6 | 8 6 | | |
| 20 | 9 16 | 31·3 | |
| ... | ... | | |
| ... | ... | | |
| ... | ... | | |
| 5 | 3 10 | 4·6 | |
| ... | ... | | |
| ... | ... | | |
| 58 | 5 2 | | |
| 54 | 4 3 | 58·8 | |
| ... | ... | | |
| ... | ... | | |
| 112 | 5 0 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | RAWAL |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . | 63 | 58 | 55 | 184 |
| | | Not previously convicted . | 93 | 70 | 49 | 135 |
| | Section 506 | Previously convicted . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . | 60 | 56 | 46 | 101 |
| | | Not previously convicted . | 64 | 41 | 24 | 103 |
| | Section 506 | Previously convicted . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted . | 40 | 37 | 31 | 128 |
| | | Not previously convicted . | 73 | 48 | 39 | 101 |
| | Section 506 | Previously convicted . | 6 | 6 | 6 | 400 |
| | | Not previously convicted . | 3 | 3 | 2 | 500 |
| TOTAL. | Section 505 | Previously convicted . | 163 | 151 | 132 | 137 |
| | | Not previously convicted . | 230 | 159 | 112 | 113 |
| | Section 506 | Previously convicted . | 6 | 6 | 6 | 400 |
| | | Not previously convicted . | 3 | 3 | 2 | 500 |
| | | GRAND TOTAL . | 402 | 319 | 352 | 287 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | | 10 | 11 |
|---|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| PINDI | Ms. | Ds. | | |
| 38 | 5 | 3 | | Of the cases entered in this statement the following number were tried by the local Magistrates, *viz.* :— |
| 20 | 2 | 21 | 17·9 | |
| ... | ... | | | |
| ... | ... | | | |
| 26 | 4 | 18 | | |
| 14 | 3 | 17 | 13·6 | |
| ... | ... | | | |
| ... | ... | | | |
| 20 | 4 | 3 | | |
| 20 | 2 | 0 | 13·2 | |
| 5 | 6 | 23 | | |
| ... | 0 | 5 | | |
| 84 | 4 | 18 | | |
| 54 | 2 | 22 | 14·9 | |
| 5 | 2 | 7 | | |
| ... | 6 | 0 | | |
| 143 | 2 | 13 | | |

| | 1875. | 1876. | 1877. |
|---|---|---|---|
| Magistrate of Attock . | 69 | 35 | 35 |
| Magistrate of Murree . | 5 | 7 | 9 |

and the remaining cases were disposed of at the head-quarters on report by the police, except 6 persons, who were tried at first for some other offence, and then for bad livelihood.

*Classified Statement showing the number of persons prosecuted, convicted,*
*years 1875, 1876,*

| 1 | 2 | | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | | JHE |
| | | | | | | | Rs. |
| 1875 | Section 505 | | Previously convicted . . | 29 | 23 | 17 | 126 |
| | | | Not previously convicted . | 87 | 45 | 18 | 108 |
| | Section 506 | | Previously convicted . . | ... | ... | ... | ... |
| | | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | | Previously convicted . . | 62 | 57 | 54 | 125 |
| | | | Not previously convicted . | 58 | 44 | 46 | 160 |
| | Section 506 | | Previously convicted . . | 1 | 1 | 1 | 400 |
| | | | Not previously convicted . | ... | ... | ... | ... |
| 1877 | Section 505 | | Previously convicted . . | 72 | 53 | 25 | 120 |
| | | | Not previously convicted . | 68 | 40 | 21 | 132 |
| | Section 506 | | Previously convicted . . | 22 | 18 | 4 | 144 |
| | | | Not previously convicted . | 4 | 4 | 1 | 175 |
| TOTAL. | Section 505 | | Previously convicted . . | 163 | 133 | 96 | 123 |
| | | | Not previously convicted . | 213 | 129 | 85 | 133 |
| | Section 506 | | Previously convicted . . | 23 | 19 | 5 | 272 |
| | | | Not previously convicted . | 4 | 4 | 1 | 175 |
| | | | GRAND TOTAL . | 403 | 285 | 187 | 176 |

*and imprisoned for bad livelihood in the Districts of he Punjab during the and 1877*—(continued).

| 8 | 9 | 10 |
|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. |
| LUM. | Days. | |
| 9 | 125 | |
| 7 | 55 | 13·5 |
| ... | ... | |
| ... | ... | |
| 31 | 99 | |
| 13 | 57 | |
| ... | 1,095 | 20·3 |
| ... | ... | |
| 8 | 51 | |
| 4 | 22 | |
| 1 | 23 | 22·9 |
| 1 | 73 | |
| 48 | 58 | |
| 24 | 44 | |
| 1 | 8 | 18·9 |
| 1 | 386 | |
| 74 | 124 | |

**11**

REMARKS BY DEPUTY COMMISSIONERS.

There were 105 cases taken up locally by Magistrates during the three years on tour, as follows:—

In 1875 . . 25 cases.,
„ 1876 . . 37 do.,
„ 1877 . . 44 do.,

and those tried at the head-quarters of the District on report of the police were 59 cases during the three years, as follows:—

In 1875 . . 22 cases.
„ 1876 . . 7 do.
„ 1877 . . 30 do.

While on tour in the district the investigation is made either in the village where the accused resides, or adjacent to it. The evidence then taken is that of the lambardárs and chaukídárs, while the general opinion of the village is consulted.

This is without doubt the best way of working the law. In a district like Jhelum, where there are strong party feelings in almost every village, there is always great danger of men being sent up for trial out of spite. On this account, as *far as possible*, these cases have always been taken up by Magistrates on tour.

As a rule, if the police consider it is necessary to demand security from men during the hot season when Magistrates cannot go on tour, a report is first made and orders taken before accused is sent up. If an order is given for security to be demanded, the lambardárs and village watchmen are called to give evidence.

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | GUJ |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted | 20 | 15 | 15 | 176 |
| | | Not previously convicted | 29 | 17 | 15 | 143 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted | 94 | 50 | 31 | 150 |
| | | Not previously convicted | 135 | 126 | 76 | 106 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted | 40 | 32 | 25 | 113 |
| | | Not previously convicted | 95 | 75 | 54 | 103 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| TOTAL. | Section 505 | Previously convicted | 154 | 97 | 71 | 146 |
| | | Not previously convicted | 259 | 218 | 245 | 117 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| | | GRAND TOTAL | 413 | 315 | 216 | 131 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| **RAT.** | | | |
| | Days. | | |
| 5 | 60 | | 1875. { Sadr . . . . . . . 81<br>Mofussil . . . . . . 18<br>1876. { Sadr . . . . . . . 68<br>Mofussil . . . . . . 31<br>1877. { Sadr . . . . . . . 90<br>Mofussil . . . . . . 9<br>Investigations both on tour and at head-quarters instituted on report of police, with reference to the evidence of lambardárs and zaildárs whose statements were recorded by the courts, the said witnesses alleging in unhesitating terms that the accused parties were notorious thieves and bad characters. The assertions are occasionally prompted by personal enmity, a circumstance which makes it incumbent that pressure ought not to be put on the Magistrates to unlimited action in these cases, for it is undoubted that cases of hardship have resulted from the tendency to aggressive measures arising from great stress being laid by the Government on the working of this (so-called) badmash law. |
| 5 | 42 | 5·1 | |
| ... | ... | | |
| ... | ... | | |
| 13 | 76 | | |
| 22 | 47 | 28·5 | |
| ... | ... | | |
| ... | ... | | |
| 18 | 84 | | |
| 19 | 52 | 17·3 | |
| ... | ... | | |
| ... | ... | | |
| 36 | 73 | | |
| 46 | 47 | 17 | |
| ... | ... | | |
| ... | ... | | |
| 82 | 60 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Year. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | SHAH |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . . | 24 | 24 | 10 | 232 |
| | | Not previously convicted . | 57 | 48 | 2 | 200 |
| | Section 506 | Previously convicted . . | 1 | 1 | 1 | 200 |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . . | 100 | 94 | 40 | 166 |
| | | Not previously convicted . | 79 | 47 | 20 | 150 |
| | Section 506 | Previously convicted . . | 32 | 30 | 10 | 101 |
| | | Not previously convicted . | 17 | 15 | 3 | 95 |
| 1877 | Section 505 | Previously convicted . . | 52 | 49 | 22 | 77 |
| | | Not previously convicted . | 67 | 54 | 15 | 69 |
| | Section 506 | Previously convicted . . | 22 | 22 | ... | 106 |
| | | Not previously convicted . | 14 | 13 | ... | 100 |
| Total | Section 505 | Previously convicted . . | 176 | 167 | 72 | 158 |
| | | Not previously convicted . | 203 | 149 | 37 | 139 |
| | Section 506 | Previously convicted . . | 55 | 53 | 11 | 135 |
| | | Not previously convicted . | 31 | 28 | 3 | 97 |
| | | Grand Total . | 645 | 397 | 123 | 132 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | | 10 | 11 |
|---|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| PUR. | | | | |
| | Ms. | Ds. | | |
| 8 | 9 | 0 | | 1875. Sixty per cent. were taken up locally by Magistrates on tour and 40 per cent. at head-quarters on police reports.<br>1876. Fifty and 50 per cent. respectively.<br>1877. Forty and 60 ditto.<br>The lambardárs and choukídárs being held responsible for the good conduct of their villages are, as a rule, sent up for the prosecution, but the accused persons are allowed to cite whom they please, and after hearing evidence on both sides (if accused called witnesses) orders are passed and security demanded with reference to their means and previous character.<br>In all bár districts such cases must, of necessity, be more numerous if the law is worked properly than in other more civilised tracts.<br>Taking security from bad characters is a great check to crime and the police have them also noted. |
| 2 | 1 | 4 | 19·7 | |
| ... | .. | | | |
| ... | ... | | | |
| 18 | 2 | 0 | | |
| 8 | 2 | 0 | 50·4 | |
| 3 | 8 | 0 | | |
| ... | ... | | | |
| 10 | 1 | 0 | | |
| 3 | 1 | 4 | 37·4 | |
| ... | ... | | | |
| ... | ... | | | |
| 36 | 4 | 0 | | |
| 13 | 1 | 12 | 35· | |
| 3 | | 0 | | |
| ... | .. | | | |
| 52 | 2 | 14 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted,*
*years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | MOOL |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . . | 102 | 98 | 96 | 146 |
| | | Not previously convicted . | 52 | 46 | 43 | 153 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . . | 27 | 22 | 17 | 174 |
| | | Not previously convicted . | 30 | 13 | 14 | 102 |
| | Section 506 | Previously convicted . . | 1 | 1 | 1 | 300 |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted . . | 83 | 80 | 55 | 107 |
| | | Not previously convicted . | 45 | 34 | 31 | 115 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| TOTAL. | Section 505 | Previously convicted . . | 212 | 200 | 168 | 142 |
| | | Not previously convicted . | 127 | 93 | 88 | 123 |
| | Section 506 | Previously convicted . . | 1 | 1 | 1 | 300 |
| | | Not previously convicted . | ... | ... | ... | ... |
| | | GRAND TOTAL . | 340 | 294 | 257 | 155 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| TAN. | | | |
| | Days. | | |
| 58 | 95 | | 1875. In camp 103; head-quarters 51. The evidence of lambardárs and respectable neighbours of the village of accused and of neighbouring villages, and of the police officer of the thána were recorded in presence of the accused, whose defence was recorded, as also the statement of his witnesses, in open court. The evidence for prosecution was to the accused's former convictions, present repute, and habits and means of livelihood.<br>1876. In camp 10; head-quarters 48. Those at head-quarters as in 1875. Those in camp were tried without record of evidence. They were tried by order of the Deputy Commissioner himself from inspection of the police registers, and from the evidence of the police officers and country-side report of the accused as gathered from the statement of the people on the spot.<br>1877. In camp 38; head-quarters 40, as in 1876. |
| 29 | 114 | 30·5 | |
| ... | ... | | |
| ... | ... | | |
| 14 | 212 | | |
| 10 | 141 | 7·6 | |
| 1 | 91 | | |
| ... | ... | | |
| 18 | 53 | | |
| 15 | 102 | 24·2 | |
| ... | ... | | |
| ... | ... | | |
| 90 | 120 | | |
| 54 | 119 | 20·8 | |
| 1 | 30 | | |
| ... | ... | | |
| 145 | 89 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Year. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | JHANG. |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . . | 43 | 40 | 38 | 130 |
| | | Not previously convicted . | 24 | 13 | 9 | 238 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | 1 | 1 | 1 | 600 |
| 1876 | Section 505 | Previously convicted . . | 107 | 87 | 59 | 85 |
| | | Not previously convicted . | 13 | 8 | 3 | 75 |
| | Section 506 | Previously convicted . . | 2 | 2 | 2 | 550 |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted . . | 5 | 2 | 2 | 150 |
| | | Not previously convicted . | 23 | 7 | 7 | 321 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| Total. | Section 505 | Previously convicted . . | 155 | 129 | 99 | 121 |
| | | Not previously convicted . | 60 | 28 | 19 | 211 |
| | Section 506 | Previously convicted . . | 2 | 2 | 2 | 550 |
| | | Not previously convicted . | 1 | 1 | 1 | 600 |
| | | Grand Total . | 218 | 160 | 121 | 370 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| | Days. | | |
| 12 | 74 | | It appears that out of the 54 persons convicted in 1875, 45 were convicted by the Magistrate when on tour. |
| 7 | 119 | 15·5 | There were 35 cases taken up, and of these 20 were disposed of on tour and 15 in the Sadr. |
| ... | ... | | Out of the 97 persons convicted, 76 were convicted by the Magistrate on tour, and out of 60 cases 33 were also disposed of on tour and 27 in the Sadr. |
| 1 | 466 | | Three cases were taken up by the Magistrate on tour and 9 in the Sadr. |
| 12 | 35 | | I find that the evidence for the prosecution was given by lambardárs and zaildárs. The evidence of police officers has not generally been taken. |
| 1 | 121 | 27·9 | |
| 1 | 236 | | |
| ... | ... | | |
| 2 | One person for 31 days and the other still in jail. | | |
| 3 | 53 | 2·6 | |
| ... | ... | | |
| ... | ... | | |
| 26 | 46 | | |
| 11 | 97 | 15·3 | |
| 1 | 236 | | |
| 1 | 466 | | |
| 39 | 211 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | MONT |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted | 245 | 173 | 301 | 119 |
| | | Not previously convicted | 31 | 26 | 26 | 40 |
| | Section 506 | Previously convicted | 2 | 2 | 2 | 350 |
| | | Not previously convicted | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted | 73 | 58 | 35 | 106 |
| | | Not previously convicted | 19 | 14 | 14 | 73 |
| | Section 506 | Previously convicted | 1 | 1 | 1 | 2,000 |
| | | Not previously convicted | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted | 130 | 97 | 84 | 105 |
| | | Not previously convicted | 40 | 40 | 33 | 120 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| TOTAL. | Section 505 | Previously convicted | 448 | 328 | 222 | 110 |
| | | Not previously convicted | 90 | 80 | 73 | 77 |
| | Section 506 | Previously convicted | 3 | 3 | 3 | 1,175 |
| | | Not previously convicted | ... | ... | ... | ... |
| | | GRAND TOTAL | 541 | 411 | 298 | 454 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| GOMERY | | | |
| | Days. | | |
| 48 | 67 | | 1875. Total 278 persons. Number disposed of by Magistrates on tour 155. Number disposed of at Sadr on report of police 123.<br>1876. Total 93 persons. Number disposed of by Magistrates on tour 29. Number disposed of at Sadr on report of police 64.<br>1877. Total 170 persons. Number disposed of by Magistrates on tour 65. Number disposed of at Sadr on report of police 105.<br>Reports that the evidence offered in cases of bad livelihood on behalf of the prosecution by lambardárs and others seems to have been—<br>1. Certifying to the previous convictions of the accused.<br>2. Of a general nature, such as being suspected of receiving stolen property, associating with thieves, &c.<br>Remarks that the witnesses brought up are too apt to be satisfied with a general assertion, and many Magistrates accept that and ask no more. Deputy Commissioner has of late years endeavoured to elicit the source and reason for such general assertions, but has generally failed. |
| 12 | 70 | 55·9 | |
| 2 | 67 | | |
| ... | ... | | |
| 13 | 25 | | |
| 3 | 62 | 20·3 | |
| 1 | ... | | |
| ... | ... | | |
| 31 | 47 | | |
| 3 | 22 | 38·1 | |
| ... | ... | | |
| ... | ... | | |
| 92 | 46 | | |
| 18 | 51 | 38·1 | |
| 3 | 22 | | |
| ... | ... | | |
| 113 | 39 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | **MUZAF** |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted | 29 | 23 | 21 | 335 |
| | | Not previously convicted | 167 | 127 | 124 | 325 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | .. | ... | ... | ... |
| 1876 | Section 505 | Previously convicted | 4 | 4 | 4 | 250 |
| | | Not previously convicted | 20 | 20 | 20 | 200 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | 1 | 1 | ... | 2,000 |
| 1877 | Section 505 | Previously convicted | 8 | 6 | 5 | 200 |
| | | Not previously convicted | 20 | 15 | 15 | 200 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| TOTAL. | Section 505 | Previously convicted | 41 | 33 | 30 | 261 |
| | | Not previously convicted | 207 | 162 | 159 | 241 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | 1 | 1 | ... | 2,000 |
| | | GRAND TOTAL | 249 | 196 | 189 | 834 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| FARG | ARH | | |
| | Days. | | |
| 20 | 172 | | Thirty-one cases were enquired into by Deputy Commissioner when on tour. The remainder of the cases (37) were decided at head-quarters. |
| 90 | 192 | 49·1 | Only 1 case enquired into on tour, the remainder at head-quarters; 13 cases in all. |
| ... | ... | | There were 14 cases and 4 of these enquired into on tour. |
| ... | ... | | *N. B.*—The evidence taken was that of lambardárs and zaildárs, and any respectable persons not lambardárs or zaildárs. |
| 4 | 336 | | |
| 20 | 326 | 8·5 | |
| ... | ... | | |
| ... | ... | | |
| 5 | 105 | | |
| 15 | 103 | 7·1 | |
| ... | ... | | |
| ... | ... | | |
| 29 | 204 | | |
| 125 | 207 | 21·6 | |
| ... | ... | | |
| ... | ... | | |
| 154 | 206 | | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Year. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | DERA | ISMAIL |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted | 22 | 22 | 22 | 243 |
| | | Not previously convicted | 122 | 104 | 56 | 130 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted | 24 | 24 | 24 | 194 |
| | | Not previously convicted | 133 | 117 | 59 | 245 |
| | Section 506 | Previously convicted | ... | ... | .. | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted | 19 | 19 | 19 | 205 |
| | | Not previously convicted | 126 | 115 | 87 | 215 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| Total. | Section 505 | Previously convicted | 65 | 65 | 65 | 214 |
| | | Not previously convicted | 381 | 336 | 202 | 196 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | ... | ... | ... | ... |
| | | Grand Total | 446 | 401 | 267 | 205 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livlihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| KHA | N. | | |
| | Days. | | |
| 19 | 137 | | 1875. At the end of the year there were 31 persons in jail in default of security. No cases were taken up by Magistrates on tour.<br>1876. At the end of the year there were 23 persons in jail. No cases were taken up by Magistrates on tour.<br>1877. At the end of the year there were 13 in jail. No cases were taken up by Magistrates on tour.<br>NOTE.—The cases are taken up either by order of Magistrate or on report of police and tried at the head-quarters of the district or of the Bhakkar sub-division, and the evidence offered is similar to that taken in ordinary judicial cases. The evidence of lambardárs and respectable people is required in support of the charge. The small number of persons detained in jail at end of each year shows that the law, with reference to bad characters giving security for good conduct, is not allowed to be used by the police as an engine of oppression in this district. The sanction of the Magistrate might be required before the police proceed against persons not previously convicted. |
| 25 | 81 | 31·9 | |
| ... | ... | | |
| ... | ... | | |
| 23 | 170 | | |
| 27 | 41 | 35·7 | |
| ... | ... | | |
| ... | ... | | |
| 16 | 163 | | |
| 41 | 59 | 33·9 | |
| ... | ... | | |
| ... | ... | | |
| 58 | 156 | | |
| 93 | 60 | 33·8 | |
| ... | ... | | |
| ... | ... | | |
| 151 | 108 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the Proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | DERA | GHAZI |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted | 62 | 62 | 55 | 118 |
| | | Not previously convicted | 79 | 67 | 46 | 91 |
| | Section 506 | Previously convicted | 2 | 2 | 2 | 350 |
| | | Not previously convicted | 1 | 1 | 1 | 300 |
| 1876 | Section 505 | Previously convicted | 37 | 37 | 32 | 92 |
| | | Not previously convicted | 92 | 68 | 33 | 104 |
| | Section 506 | Previously convicted | 1 | 1 | 1 | 500 |
| | | Not previously convicted | 1 | 1 | 1 | 400 |
| 1877 | Section 505 | Previously convicted | 34 | 34 | 34 | 179 |
| | | Not previously convicted | 126 | 100 | 26 | 101 |
| | Section 506 | Previously convicted | 6 | 6 | 6 | 933 |
| | | Not previously convicted | 7 | 3 | 3 | 433 |
| TOTAL | Section 505 | Previously convicted | 133 | 133 | 121 | 129 |
| | | Not previously convicted | 302 | 235 | 105 | 98 |
| | Section 506 | Previously convicted | 9 | 9 | 9 | 594 |
| | | Not previously convicted | 9 | 5 | 35 | 377 |
| | | GRAND TOTAL | 453 | 382 | 240 | 300 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | | 10 | 11 | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. | | | | | |
| | | | | Cases decided at the Sadr. | Cases decided on tour. | *Evidence for prosecution.* | | | |
| | | | | | | Lambardárs. | Zaildárs. | Police. | Others. |
| KHAN | | | | | | | | | |
| | Ms. | Ds. | | | | | | | |
| 31 | 4 | 7 | | 58 | ... | 44 | 21 | 3 | 105 |
| 19 | 3 | 16 | 43· | 45 | 4 | 36 | 18 | 5 | 99 |
| 2 | 7 | 24 | | 1 | ... | 2 | 1 | ... | 1 |
| 1 | 3 | 0 | | 1 | ... | 2 | ... | ... | 2 |
| 22 | 5 | 0 | | 29 | ... | 21 | 12 | 6 | 54 |
| 12 | 1 | 0 | | 41 | 3 | 36 | 11 | 5 | 96 |
| 1 | 7 | 0 | 34·7 | 1 | ... | 1 | 2 | ... | ... |
| 1 | 5 | 0 | | 1 | ... | 2 | 1 | ... | 1 |
| 17 | 1 | 2 | | 27 | 3 | 41 | 9 | 2 | 39 |
| 5 | 0 | 13 | | 68 | 6 | 46 | 23 | 5 | 135 |
| 5 | 8 | 6 | 46·6 | 2 | ... | 1 | 1 | .. | ... |
| 3 | 1 | 9 | | 2 | ... | 1 | 2 | ... | 5 |
| 70 | 3 | 13 | | | | | | | |
| 36 | 1 | 19 | 41·4 | | | | | | |
| 8 | 7 | 20 | | | | | | | |
| 5 | 3 | 3 | | | | | | | |
| 119 | 3 | 29 | ... | | | | | | |

Reports that no unusual energy has been displayed in the Dera Gházi Khan district in the enforcement of the law against bad characters. All the persons prosecuted who had been previously convicted were called upon to find security. Does not think there has been any undue harshness in the prosecution of bad characters in the district. Considers that as against old offenders there can be little risk of misapplying the law, and that as against persons who have not been previously convicted, if a careful enquiry is made before security is called, the law is highly beneficial.

*Classified Statements showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEARS. | Section of the Criminal Procedure Code under which the Proceedings were held. | Whether or not person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | BAN |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . . | 6 | 6 | 5 | 183 |
| | | Not previously convicted . | 95 | 87 | 48 | 147 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . . | 8 | 8 | 4 | 100 |
| | | Not previously convicted . | 20 | 104 | 9 | 128 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted . . | 10 | 9 | 4 | 13 |
| | | Not previously convicted . | 125 | 119 | 14 | 126 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | 1 | 1 | 1 | 1,500 |
| TOTAL. | Section 505 | Previously convicted . . | 24 | 23 | 13 | 140 |
| | | Not previously convicted . | 240 | 310 | 71 | 133 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | 1 | 1 | 1 | 1,500 |
| | | GRAND TOTAL . | 275 | 334 | 85 | 591 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| NU | | | |
| | Days. | | |
| 4 | 183 | | About 95 per cent. of the cases were taken up on the report of the police. The cases were disposed of as follows:— The evidence of lambardárs and chaukidárs and men of villages was taken on behalf of prosecution in about 95 per cent. of the cases, and the rest were based on the facts of the men's previous convictions. |
| 11 | 60 | 32·3 | |
| ... | ... | | |
| ... | ... | | |
| 2 | 134 | | |
| 7 | 143 | 63·9 | |
| ... | ... | | |
| ... | ... | | |
| 2 | 156 | | |
| 7 | 67 | 44·8 | |
| ... | ... | | |
| 1 | 35 | | |
| 8 | 158 | | |
| 25 | 90 | 47· | |
| ... | ... | | |
| 1 | 12 | | |
| 34 | 65 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | PESHA |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted | 20 | 16 | 6 | 150 |
| | | Not previously convicted | 241 | 175 | 36 | 155 |
| | Section 506 | Previously convicted | 2 | 2 | 1 | 300 |
| | | Not previously convicted | 14 | 12 | ... | 400 |
| 1876 | Section 505 | Previously convicted | 12 | 12 | 9 | 120 |
| | | Not previously convicted | 168 | 136 | 9 | 160 |
| | Section 506 | Previously convicted | ... | ... | ... | ... |
| | | Not previously convicted | 16 | 16 | 4 | 475 |
| 1877 | Section 505 | Previously convicted | 24 | 24 | 20 | 190 |
| | | Not previously convicted | 358 | 277 | 40 | 180 |
| | Section 506 | Previously convicted | 2 | 2 | 2 | 300 |
| | | Not previously convicted | 26 | 26 | 26 | 220 |
| TOTAL. | Section 505 | Previously convicted | 56 | 52 | 35 | 153 |
| | | Not previously convicted | 767 | 588 | 85 | 165 |
| | Section 506 | Previously convicted | 4 | 4 | 3 | 300 |
| | | Not previously convicted | 56 | 54 | 30 | 365 |
| | | GRAND TOTAL | 883 | 698 | 153 | 245 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| **WAR.** | | | |
| | Days. | | |
| 4 | 192 | | All these cases were tried at the head-quarter of the district. Of these cases the following proportion was taken up on report by the police, *viz.* :—<br>In 1875 . . . . . 55 per cent.<br>„ 1876 . . . . . 61 „<br>„ 1877 . . . . . 73 „ |
| 20 | 53 | 39·6 | |
| 1 | 110 | | |
| ... | ... | | Other cases were those in which accused persons, after having been punished or acquitted under the Frontier Regulations, were considered by the Magistrate to be of dangerous character; they were required to find security for future good conduct. In 1877, Mr. DeCourcy, the Magistrate in charge of the city and surrounding villages, enquired into the number of notorious bad characters, and called upon the police to furnish report regarding them, and after satisfying himself of their being of the above class, required them to find securities. The proportion of this class of cases was 19 per cent. to total number punished for bad livelihood. |
| 8 | 175 | | |
| 6 | 147 | 29·4 | |
| ... | ... | | |
| 2 | 175 | | |
| 6 | 158 | | |
| 20 | 131 | 62·9 | Reports that the procedure followed in the Peshâwar District is that laid down in chapter 38 of Act X of 1872. The evidence taken is generally that of the headmen of the village. |
| 1 | 203 | | |
| 2 | 173 | | |
| 18 | 178 | | Investigations are occasionally made by the Magistrate when on tour, but the majority of cases are sent up by the police, and the charge is investigated in precisely the same manner as in any other criminal case. The person from whom security is demanded has the right of appeal to the Magistrate of the District. Such appeals are extremely rare. |
| 46 | 110 | 44· | |
| 2 | 101 | | |
| 4 | 116 | | |
| 70 | 126 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | KOHAT |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . . | 7 | 7 | 7 | 100 |
| | | Not previously convicted . | 207 | 205 | 205 | 100 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | 2 | 2 | 2 | 500 |
| 1876 | Section 505 | Previously convicted . . | 5 | 5 | 5 | 100 |
| | | Not previously convicted . | 61 | 46 | 46 | 100 |
| | Section 506 | Previously convicted . . | ... | ... | ... | ... |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted . . | 26 | 26 | 26 | 100 |
| | | Not previously convicted . | 99 | 80 | 80 | 100 |
| | Section 506 | Previously convicted . . | 1 | 1 | 1 | 1,200 |
| | | Not previously convicted . | 11 | 10 | 10 | 1,018 |
| TOTAL. | Section 505 | Previously convicted . . | 38 | 38 | 38 | 100 |
| | | Not previously convicted . | 367 | 331 | 331 | 100 |
| | Section 506 | Previously convicted . . | 1 | 1 | 1 | 1,200 |
| | | Not previously convicted . | 13 | 12 | 12 | 500 |
| | | GRAND TOTAL . . | 419 | 382 | 382 | 477 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | | 10 | 11 |
|---|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| | Ms. | Ds. | | |
| 9 | 0 | 31 | | Reports that in 1875 no cases were taken up on tour. About one-third of the cases were enquired into on report of the police. In 1876 no cases were taken up on tour. Less than one-third of the cases were enquired into on report of the police. In 1877 no cases were taken up on tour. Two-thirds of the cases were enquired into on report of the police made in compliance with a general order of the Magistrate of the District to prosecute bad characters. In all these cases the evidence of witnesses (fellow-villagers and police) was recorded in court, and previous convictions notified to the accused. The evidence was of a general nature to the effect that the accused were of notoriously bad livelihood. |
| 8 | 0 | 40 | 147·2 | |
| ... | ... | | | |
| ... | 0 | 15 | | |
| ... | 0 | 16 | | |
| ... | 0 | 23 | 35·1 | |
| ... | ... | | | |
| ... | ... | | | |
| 24 | 2 | 8 | | |
| 44 | 1 | 3 | 80·2 | |
| 1 | 2 | 28 | | |
| 6 | 4 | 9 | | |
| 30 | 1 | 8 | | |
| 52 | 1 | 0 | 87·5 | |
| 1 | 0 | 29 | | |
| 6 | 1 | 18 | | |
| 89 | 1 | 6 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted,*
*years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapters 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | | HAZA |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . . | 25 | 20 | 4 | 100 |
| | | Not previously convicted . | 38 | 29 | 2 | 100 |
| | Section 506 | Previously convicted . . | 4 | 4 | 4 | 150 |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1876 | Section 505 | Previously convicted . . | 19 | 18 | 4 | 125 |
| | | Not previously convicted . | 38 | 33 | 9 | 100 |
| | Section 506 | Previously convicted . . | 2 | 2 | 2 | 250 |
| | | Not previously convicted . | ... | ... | ... | ... |
| 1877 | Section 505 | Previously convicted . . | 26 | 18 | 15 | 75 |
| | | Not previously convicted . | 44 | 34 | 14 | 150 |
| | Section 506 | Previously convicted . . | 2 | 2 | ... | 300 |
| | | Not previously convicted . | ... | ... | ... | ... |
| TOTAL. | Section 505 | Previously convicted . . | 70 | 56 | 23 | 100 |
| | | Not previously convicted . | 120 | 96 | 25 | 116 |
| | Section 506 | Previously convicted . . | 8 | 8 | 6 | 233 |
| | | Not previously convicted . | ... | ... | ... | ... |
| | | GRAND TOTAL . . | 198 | 160 | 54 | 150 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(continued).

| 8 | 9 | | | 10 | 11 |
|---|---|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | | | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| RA. | | | | | |
| | Y. | M. | D. | | |
| 4 | 0 | 1 | 0 | | 1875.—Two cases were tried on tour and the rest at head-quarters on the evidence of lambardárs and other trustworthy men.<br>1876.—Twenty-two persons were convicted on tour and the rest at head-quarters on the evidence of lambardárs, &c., as in 1875.<br>1877.—Eighteen were convicted on tour and the rest at head-quarters. Evidence as above. |
| 1 | 0 | 9 | 0 | 14·4 | |
| 1 | 1 | 0 | 0 | | |
| ... | | ... | | | |
| 4 | 0 | 6 | 0 | | |
| 1 | 0 | 9 | 0 | 14·4 | |
| 1 | 1 | 0 | 0 | | |
| ... | | ... | | | |
| 2 | 0 | 2 | 0 | | |
| ... | 0 | 0 | 6 | 14·7 | |
| ... | | ... | | | |
| ... | | ... | | | |
| 10 | 0 | 3 | 0 | | |
| 2 | 0 | 6 | 0 | 14·5 | |
| 2 | 1 | 0 | 0 | | |
| ... | | ... | | | |
| 14 | 0 | 7 | 0 | ... | |

*Classified Statement showing the number of persons prosecuted, convicted, years 1875, 1876,*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| YEAR. | Section of the Criminal Procedure Code under which the proceedings were held. | Whether or not the person charged had been previously convicted under chapter 12 or 17 of the Indian Penal Code. | Number of persons prosecuted. | Number of persons convicted. | Number of persons imprisoned in default of furnishing security. | Average amount of security demanded. |
| | | | | | TOTA | LS FOR |
| | | | | | | Rs. |
| 1875 | Section 505 | Previously convicted . . | 3,020 | 2,721 | 1,019 | 125 |
| | | Not previously convicted . | 3,239 | 2,622 | 1,086 | 123 |
| | Section 506 | Previously convicted . . | 16 | 16 | 14 | 83 |
| | | Not previously convicted . | 27 | 25 | 10 | 95 |
| 1876 | Section 505 | Previously convicted . . | 2,526 | 2,278 | 885 | 187 |
| | | Not previously convicted . | 2,576 | 2,070 | 838 | 115 |
| | Section 506 | Previously convicted . . | 60 | 58 | 29 | 175 |
| | | Not previously convicted . | 43 | 39 | 10 | 239 |
| 1877 | Section 505 | Previously convicted . . | 3,130 | 2,698 | 843 | 127 |
| | | Not previously convicted . | 3,090 | 2,498 | 839 | 131 |
| | Section 506 | Previously convicted . . | 73 | 68 | 24 | 156 |
| | | Not previously convicted . | 74 | 67 | 47 | 151 |
| TOTAL. | Section 505 | Previously convicted . . | 8,676 | 7,697 | 2,747 | 146 |
| | | Not previously convicted . | 8,906 | 7,190 | 2,763 | 123 |
| | Section 506 | Previously convicted . . | 149 | 142 | 67 | 138 |
| | | Not previously convicted . | 143 | 131 | 67 | 161 |
| | | GRAND TOTAL . | 17,864 | 15,152 | 5,636 | 142 |

*and imprisoned for bad livelihood in the Districts of the Punjab during the and 1877*—(concluded).

| 8 | 9 | 10 | 11 |
|---|---|---|---|
| Number of persons detained in prison for more than a month in default of furnishing security. | Average periods of detention in default of furnishing security. | Proportion of persons convicted of bad livelihood per 100,000 of population. | REMARKS BY DEPUTY COMMISSIONERS. |
| THE | PROV | INCE. | |
| | Y. M. D. | | |
| 647 | 0 4 22 | 30·5 | |
| 497 | 0 3 21 | | |
| 10 | 0 3 22 | | |
| 7 | 0 1 0 | | |
| 521 | 0 4 19 | 25·2 | |
| 454 | 0 4 4 | | |
| 19 | 0 2 28 | | |
| 5 | 0 1 21 | | |
| 485 | 0 3 28 | 30·2 | |
| 418 | 0 3 5 | | |
| 16 | 0 1 5 | | |
| 16 | 0 0 17 | | |
| 1,653 | 0 4 10 | 28·6 | |
| 1,369 | 0 3 21 | | |
| 45 | 0 2 18 | | |
| 28 | 0 1 3 | | |
| 3,087 | 0 2 29 | . | |

From COLONEL W. G. DAVIES, C.S.I., Commissioner and Superintendent, Delhi Division, to the Officiating Registrar, Chief Court, Punjab,—No. 79, dated 29th May 1878.

I have the honour, with reference to your No. 851, of the 17th ultimo, to forward herewith the statements called for in your circular memorandum No. 4-567, of the 26th March last, and to furnish at the same time the opinion asked for in your letter first quoted.

2. On the receipt of the first of the communications quoted above, I asked the Deputy Commissioners of this Division to forward, with the statements called for in your circular, a few files of enquiry into bad livelihood cases. These I have examined and proceed to give the result of my examination:—

3. (1).—In some few cases a number of individuals were *tried together* in one case, though no other connection existed between them than that the same witnesses were called to give evidence against the *whole number*.

(2).—The witnesses for prosecution or defence were not carefully examined.

(3).—One officer (Mr. Francis) did not take down the statement of the accused at all, and appears to have contented himself by asking him verbally what witnesses he wished to call and to have summoned, and examined these. Another officer (Mr. Silcock) did record the defence made by the accused, but seldom asked him if he had any witnesses to call. The record of this officer was *far from satisfactory*.

(4).—In many cases, especially those tried by Mr. Silcock, the amount of security demanded was excessive, and was apparently fixed high with the object of securing the imprisonment of the person charged with bad livelihood. It will be seen from the statement how high the average amount of security demanded in the Karnal District during the past year has been.

4. I append hereto copies of the opinions of Messrs. Barkley and Roberts, who were demi-officially consulted by me on the receipt of your confidential letter. In the views expressed by the former I entirely concur, and it will be seen that the result of my examination of files of decided cases in this division bears out what Mr. Barkley has given as the result of his experience in other parts of the Punjab. My experience elsewhere has also convinced me that since attention was called some years ago to the good effect of making greater use of the law for taking security from bad characters in repressing crime, the law has been worked in many cases with too great rigour and without sufficient care that hardship shall not be caused to individuals. At the same time, I have no reason to think that the law on this subject has been abused to anything like the extent described in the printed enclosures of your letter under reply.

5. As regards an appeal to the Sessions Judge, it should, I think, be allowed; he is more likely to be disinterested than the Magistrate of the District, who is directly concerned in the repression of crime

throughout the area under his charge. Moreover, the Code would appear inconsistent in not allowing an appeal to the Sessions Judge from the orders of the Magistrate of the District in cases in which, in default of furnishing the security demanded, the accused may be imprisoned for a whole year, while it allows an appeal to him in all cases in which persons are convicted by first class Magistrates of specific offence and imprisoned for one month only.

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From D. G. BARKLEY, Esq., Deputy Commissioner, Delhi, to the Commissioner and Superintendent, Delhi Division,—dated 22nd April 1878.

WITH reference to Registrar, Chief Court's confidential No. 851, dated 17th instant, and its enclosures, with a perusal of which I have been favoured by you, I have the honour to state that, from facts which have come under my own observation, and from what I have learnt in conversation with other officers as to the system adopted by them, I have no doubt that since attention was called, about six years ago, to the desirability of making more extended use of the provisions of the law in regard to taking security from bad characters, in order to the more effectual repression of crime, there have been a number of cases, in more than one district, in which security has been required, and persons have been imprisoned in default of immediate payment, without sufficient discrimination and care to prevent unnecessary hardship being caused.

2. Among the abuses which have come under my notice have been—

(1) the trial of a number of individuals belonging to the same town and charged with bad livelihood as a single case, though no other connection existed between them than that the same witnesses were called to give evidence against all;

(2) the absence of a sufficient record of the evidence given by each witness with reference to each person in regard to whom his evidence was taken;

(3) the want of a proper record of any examination of the accused and of the names of any witnesses whom he wished to have called;

(4) the fixing of the amount of security without sufficient reference to what the accused might fairly be expected to be able to furnish, and, in a few instances, with the object of securing his imprisonment in default, on the ground that it was undesirable that he should be at large, even upon security; and

(5) directing imprisonment in default of furnishing the required security, even where the person required to give security only desires a few days' time to communicate with persons who are likely to enter into security for him, or where the requisite security has been actually put in, but its adequacy is still under enquiry. In such cases the accused might either be allowed to give security to appear on a future date to which the case might be postponed, or be left in police custody in the meantime.

3. I have no reason to think that it has been common to send up village servants and other persons of inferior position as witnesses against men accused of being bad characters in lieu of sending up respectable men of the neighbourhood. But if a Magistrate is disposed to treat the enquiry as a mere matter of form, and to be satisfied with evidence that a man has been once or twice convicted of some offence, and is entered in the Police Book No. 10, and does not enquire what appearances there are to indicate that he has other sources of income than his ostensible occupation or his land, if any, would furnish, he may get abundance of evidence from respectable men against people whose mode of life since their former conviction has not been such as to justify their being called upon to give security for their good behaviour, and the result may be to discourage men who, though once convicted, had ever since been endeavouring to live an honest life. If security were required simply as a precautionary measure to prevent a man who has once offended from offending again, without any reference to his present course of life, it would be better to take it without any appearance of a judicial enquiry than to go through the form of an enquiry from witnesses who testified to nothing more than the previous conviction, which, in most cases, the accused would himself admit.

4. With the exception of the occasional cases in which a man is found lurking under such circumstances as to give rise to a strong suspicion that he intended to commit an offence against property or is absolutely without any ostensible means of subsistence, it can hardly ever be desirable that charges of bad livehood should be tried elsewhere than at or within a few miles of the village where the accused resides; and in districts where such trials are numerous, the chief guarantee against abuse would be that most of the trials have been held near the accused's residence by selected officers, likely to feel their responsibility enough to take care not to call for security unnecessarily; and the next point to be attended to is that the amount of security called for should not be unreasonable, and that arrangements should be made to render it unneccessary to send men to jail in default who are prepared to furnish the security required within a short time.

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From T. ROBERTS, Esq., Officiating Deputy Commissioner, Gurgaon, to the Commissioner and Superintendent, Delhi Division,—dated 6th May 1878.

WITH reference to the accompanying correspondence on the subject of preventive jurisdiction in criminal matters, I think the tabular statement already forwarded to you will show that the powers given by sections 504 and 505 of the Criminal Procedure Code have been sparingly used in this district during the last three years, and there is now less occasion for exercising them than formerly, as the Bhiras, who are the most incorrigible of the thieving classes, have been brought under the provisions of the Criminal Tribes Act.

Judging from the files I have examined, there appears to be no reason for believing that the security demanded has been excessive or that the witnesses on whose evidence convictions have been obtained are especially untrustworthy, but lambardárs and others having the reputation of being

respectable landholders are sometimes ready enough to gratify private enmity by making a false charge, and no charge is easier to support than the vague one of being by general repute a bad character.

Unless used with very great care and discretion, the provisions of Chapter XXXVIII of the Code may become a terrible engine of oppression, and I agree with Mr. Barclay that in some districts they are too freely invoked by the Police and used by Magistrates without a sufficiently careful and formal investigation. Where the inquiry is carried on in or near the residence of the accused the trying Magistrate is ordinarily the best judge of the evidence offered, and an Appellate Court should always give this fact its due weight, but if the record were drawn up with sufficient care the Sessions Judge would have the same facility for estimating the value of evidence in these as in other classes of cases, and I do not see why a special rule with regard to appeals should exist for convictions under this section.

Intimation of the order to furnish security is sent to the prisoner's village and relatives, and this forms a certain protection against the oppressive working of the law, for, where a man is disposed to live honestly the people of his village, if anybody, knew it, and he can probably procure a surety except in cases promoted by the enmity of the chief men, but Mr. Barkley's suggestion that the prisoner should be allowed after conviction to go to his village and use his personal influence in procuring the security appears to be in every way a good one.

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From Colonel C. A. MacMahon, Commissioner and Superintendent, Hissar Division, to the Officiating Registrar, Chief Court, Punjab,—No. 52, dated 30th May 1878.

* Hissar, No. 152, dated 30th April 1878.
Rohtak, No. 179, dated 6th May.
Sirsa, No. 152, dated 17th May and annexures.

In reply to your circular memorandum No. 4-567, of 26th March (confidential No. 852, dated 17th April 1878), I have the honour to submit the replies* of District Officers giving the information called for.

The working of the law in the Hissar Division.

2. I do not think from an examination of the returns now submitted that it can be said that the law has been overworked in this division.

Result of examination of files.

3. I have examined five files from each district, selected at random, and though I carefully considered the evidence in each, I doubt whether in any case I would have interfered had the law permitted an appeal to me.

Does not consider any alteration necessary in the law.

4. Indeed, I do not think that anything would be gained by altering the law in this respect and by making cases under Chapter XXXVIII, Criminal Procedure Code, applicable to the Sessions Court. The evidence in cases under that chapter deals with mere generalities; the witnesses express their opinion regarding the general character and reputation of the accused; they are, as a rule, subjected to no cross-examination, and an Appellate Court has no means whatever of judging whether the witnesses are credible witnesses or the

reverse. The Magistrate who tries the case is the best judge of that, and to make such cases appealable to the Sessions Judge would be, except in rare exceptional cases, to take up his time to no purpose.

Deprecates Chapter XXXVIII, Criminal Procedure Code.

I doubt, however, whether the law laid down in Chapter XXXVIII, Criminal Procedure Code, is worthy of a Government as civilised as ours. It opens a wide door to oppression and to the misjudged zeal of executive officers.

The wrongs done to individuals.

6. If a lambardár has a spite against a man, or if the lambardár is bullied by the police for the occurrence of thefts in his village or neighbourhood, nothing is more easy than to propitiate the police by offering up an innocent but obnoxious person as a badmash. The lambardár and a few others come into Court and swear in vague general terms that the man is a reputed thief, and the thing is done. Speaking generally, no attempt is ever made by the Magistrate or the accused to cross-question the witnesses or to sift the character of the evidence. The witnesses rarely go beyond a mere expression of personal opinion, or give at second hand the opinions of other unnamed persons. There is nothing in their evidence you can take hold of, and it would be impossible ever to convict the most barefaced liar of perjury.

Does not consider a conviction just on the above evidence.

7. I think it is unjust that men's reputations and characters should be ruined for ever, and that they should be deprived of their liberty on such evidence as this.

8. Conceive what would be said in England were any one in Parliament to introduce a Bill framed on the lines of Chapter XXXVIII of the Criminal Procedure Code! Indeed, the idea of any one proposing to do so seems inconceivable.

Does not think Chapter XXXVIII, Criminal Procedure Code, necessary for India, and suggests a new plan.

9. If so, is there really any necessity for such a law in India? I think not. The supervision of really bad characters would, I think, be much better effected by the ticket-of-leave system. Magistrates might impose longer sentences upon conviction than they do at present, on the understanding that the prisoner would be released before the expiration of the sentence and let out on ticket-of-leave for a certain period; or a short Act might be passed empowering Magistrates in certain cases to direct that, in addition to the punishment awardable under the Indian Penal Code, the accused should find security (within certain moderate limits to be fixed) for good behaviour prior to release.

The difference between the present and proposed systems.

10. The difference between the existing system and the one I would substitute for it is very great. Under the present system, perfectly innocent and honest persons who have never been convicted of any offence are liable to lose their liberty and have their reputations ruined for life on mere hearsay, and, frequently, perfectly unreliable evidence to character; whereas, under the system I propose, security would only be taken from persons who have been convicted of a definite offence against property on the evidence of persons who depose to actual facts within their own knowledge, and whose evidence upon these facts is capable of being thoroughly sifted and well weighed.

11. I send herewith the English judgments of two cases which I think are suggestive of the dangers which are likely to arise uuder the existing system.

English proceedings in two cases.

12. One is that of Mahbub Ali Khan. His two brothers did right good service to Government during the mutiny; both, if I mistake not, were Rasaldars of Cavalry. One certainly was. One received a grant of land from Government as a reward for his services, and the other is now a Rasaldar in the service of the Maharaja of Jeypore. The family is certainly one of distinction and worthy of consideration. It is to the loyalty of men of his class that we have to look in hour of need. Well, an able and zealous young Civilian, a man of mark and promise, takes charge of the district for a couple of months. He knows nothing of local politics, of course; he has not been long enough in the district to find out the undercurrents of rural party feeling. But he pounces down on Mahbub Ali Khan as a badmash, brands his character as a reputed thief and agent of thieves, and requires him on pain of going to jail for a year to give security for Rs. 300, and to provide two sureties to the total amount of Rs. 300 more; Rs. 600 in all.

The case of Mahbub Ali Khan.

13. The defence set up by the accused was that he had excited the hostility of the lambardárs by giving information in salt-smuggling cases.

Defence of accused.

14. I do not pretend to say that the Magistrate was wrong. I have formed no opinion on the subject. When rural party feeling runs high for and against a man, it would, I take it, be next to impossible to get at the real truth when *general reputation* is the issue to be tried.

The difficulties of the case.

15. I think the case, however, is a suggestive one.

16. The second case is that of Hamdah, a leading butcher of Rohtak, who was required to produce two securities in the sum of Rs. 500 each. The case was tried by a Hindu Magistrate, on the prosecution of a Sikh Officer of police, and certainly the popular impression was that action was taken against Hamdah because Hindu religious prejudices were offended by the slaughter of kine. The facts of the case are given in detail by the Deputy Commissioner in his judgment.

The case of Hamdah.

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From J. W. Macnabb, Esq., Commissioner and Superintendent, Umballa Division, to the Registrar, Chief Court, Punjab,—No. 92, dated Umballa, 20th April 1878.

In reply to your confidential letter No. 853, dated 17th instant, I have the honour to state that I am strongly of opinion that there should be the same appeal from bad livelihood cases, both under Sections 504 and 505, as there is from all other criminal sentences, except the most trifling, under which a possible sentence of six months' imprisonment cannot be classed.

2. I am, however, of opinion that the bad livelihood law is a most excellent one, and I do not believe that, as worked in the Punjab, there is any serious abuse of it.

3. I do not believe that men of really good character are, except in very rare instances, confined under it.

4. I think, however, that, except in exceptional instances, these cases should only be disposed of by the Magistrate on the spot or in the immediate neighbourhood of the village of the accused. This might be secured by a special annual return of the numbers so tried, and those disposed of at the Sadr.

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From MAJOR G. GORDON YOUNG, Commissioner and Superintendent, Jullundur Division, to the Officiating Registrar, Chief Court, Punjab,—No. 1315, dated Dharmsala, 1st June 1878.

IN replying to your circular No. 4-567, dated 26th March, and your confidential No. 854, dated 17th April 1878, I have the honour to submit the return called for showing the number of persons prosecuted, convicted, and imprisoned for bad livelihood in the several districts of the Jullundur Division during the years 1875, 1876, and 1877.

2. Each of the Deputy Commissioners has replied, as far as possible, to the enquiries made in paragraph 2 of the circular noted, and their replies show that, except in the case of Kangra, where the cases are so few as to make it a matter of very little importance (the prosecutions there being only one in every 100,000 of the inhabitants per annum on an average), a large proportion of these cases are dealt with on the spot by officers on tour, and that the cases have been fairly tried in the customary manner, so there is no reason to suppose that the very large powers entrusted to Magistrates under sections 505 and 506 of the Criminal Procedure Code have been abused.

3. The system described by Mr. Coldstream appears judicious, and should prevent any tyranny on the part of the police if intelligently carried out by the officers concerned.

4. I believe all Magistrates of Districts are fully impressed with the opportunities of "oppression, alarm, extortion, intimidation, and wrong" which it is possible for the Police Department to put in operation if their action under these sections of the Criminal Procedure Code is not most carefully supervised; but the results, as embodied in the returns from the several districts, show that the powers conferred have been used sparingly if the number of prosecutions and convictions per 100,000 persons is regarded.

5. I find that in Kangra only 1·7 persons per 100,000 of the population were convicted under section 505 on an average, in each of the three years 1875, 1876, 1877; in Jullundur 3·2 persons out of every 100,000 of the population; and in Hoshiarpur, where the measure was most freely resorted to, 5 persons in every 100,000.

6. The subjoined statement shows divisional results under the heads—

*Prosecutions, Convictions, Persons imprisoned in default of security and persons thus imprisoned for a period of more than one month.*

The population is very nearly two and a half millions, it will be remembered, and the fact that out of this number of persons 151 were on an average prosecuted per annum, 117 convicted, 69 imprisoned in default, and 42 of those only for more than one month, does not suggest that the power has been used otherwise than with discrimination in any way, either on the part of the police in prosecuting, or on the part of the Magistrates in convicting.

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*Statement showing the number of persons in the Jullundur Division prosecuted, convicted, or imprisoned in default of security, during* 1875, 1876, *and* 1877.

| Year. | Detail of Convictions. | Prosecuted. | Convicted. | Imprisoned in default. | Detained for more than one month. |
|---|---|---|---|---|---|
| 1875 | Previously convicted | 76 | 68 | 40 | 20 |
| | Not before convicted | 77 | 59 | 35 | 19 |
| | Total | 153 | 127 | 75 | 39 |
| 1876 | Previously convicted | 47 | 44 | 28 | 21 |
| | Not before convicted | 55 | 38 | 25 | 13 |
| | Total | 102 | 82 | 53 | 34 |
| 1877 | Previously convicted | 96 | 84 | 43 | 23 |
| | Not before convicted | 103 | 59 | 38 | 29 |
| | Total | 199 | 143 | 81 | 52 |
| | Total of yearly totals | 454 | 352 | 209 | 125 |
| | Average for year | 151 | 117 | 69 | 42 |

7. My own experience as a Magistrate enables me most confidently to assert that the persons in the ordinary course of things proceeded against under these sections of the law are notorious bad livers, many of them most dangerous scoundrels, and whom, in the interests of society at large, it is eminently desirable to lock up.

Of course, it is conceivable that enmity or corrupt motives may occasionally lead to a prosecution and possibly to the conviction of an innocent man; but it would be ultrasentimentalism if, on such a ground as this, these very salutary powers were withdrawn, as I feel convinced they are in 9 cases out of 10 used fairly and beneficially.

8. The matter is one which will always require careful watching no doubt, but the attention of the criminal courts is called constantly to it year by year by His Honour the Lieutenant-Governor and the Judges of the Chief Court, and it has not, I conceive, been neglected by Commissioners. There was possibly rather an undue stimulus given at one

time owing to a misunderstanding by the Courts to the measures of certain remarks of His Honour the late Lieutenant-Governor of the Province in his review of the Criminal Administration of 1874 or 1875, I think, in noticing with approval the action in this direction taken by Mr. J. W. Smyth as Deputy Commissioner of Lahore, and too little attention was perhaps given to making the necessary effort at obtaining the desired sureties,—Magistrates, in many instances, being prone to demand a sum by way of security for which no one could be found to go bail; and in this way the very valuable arrangement under which a notorious bad character who gives security, finds himself bound to one or more decent persons not to commit himself, and by which, so to speak, these one or more respectable individuals find it their interest to look after such persons, was lost sight of. But this has now for the most part been remedied.

9. The district statements give some interesting particulars as to the amount of security demanded on an average, and the length of ultimate incarceration in default of the required security forthcoming, and in reviewing these, I am inclined to think that the rate of security demanded is still pitched too high in Hoshiarpur, and I propose to call the Deputy Commissioner's attention to this fact in connection with my remarks in the preceding paragragh. The average rate at Hoshiarpur all round seems to be nearly Rs. 200, while in Jullunder and Kangra Rs. 100 seems about the average; and ordinarily this is ample.

10. In my opinion, then, there are no grounds for conceiving that the law has been abused in this Province, and I should deprecate exceedingly that the criminal administration of districts should be weakened by any further relaxation of the law in the way of appeal being allowed to Sessions Judges or Chief Court.

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From H. E. PERKINS, Esq., Commissioner and Superintendent, Amritsar Division, to the Officiating Registrar, Chief Court, Punjab, No. 2508, dated Amritsar, 30th July 1878.

No. 280, dated 22nd July 1878, from Officiating Commissioner, Amritsar.

No. 169, dated 30th April 1878, from Deputy Commissioner, Gurdaspur.

No. 332, dated 10th June 1877, from Deputy Commissioner, Sialkot.

IN answer to your circular No. 845, dated 17th April last, and also to your confidential letter of the same date, I have the honour to forward the original replies of Deputy Commissioners of this Division on the working of the law for taking security from bad characters, considering that the population of this Division is above 3 millions. I confess I do not think that a prosecution of 1,615 persons, of whom scarcely more than a fourth were detained for more than a month in jail, is at all an excessive working of the law. I believe Punjab policy has been to encourage Deputy Commissioners in the strict enforcement of this law rather than to discourage them, and I may add that I am myself one of the warmest advocates of this policy.

2. I do not share in the apprehensions which appear to have prevailed in Bengal as to the fearful oppression and locking-up of innocent men simply with a view to encourage laziness in police officers. I would

venture to point out what appears to be a fallacy in the Bengal remarks, which is, that every convicted man is necessarily locked up for one or two years. In point of fact, comparatively few are so locked up.

3. I am quite sure it would be impossible to restrain the ruffians of our large cities and the organised crime of our rural communities without this law. Wherever I have gone I have endeavoured to put in force the provisions of Section 507, Criminal Procedure Code, and to get security taken not for one but for three years, and that in heavy sums of Rs. 1,000 or Rs. 1,500. The effects have been quite marvellous, as you may see from the statistics of the Gujrat District for 1874 compared with 1872, and of Rawalpindi in cattle-poisoning and rick-burning in 1875 compared with 1873.

4. I would, however, point out the necessity for using this law chiefly against men notorious for crimes and leaders of ill-disposed persons. The police certainly are too fond of bringing up unfortunate sweepers and weavers and such poor folk against whom it is easy enough to obtain evidence, while lambardárs and zaildárs and other men of importance escape, only because their position enables them to silence all witnesses.

5. I earnestly deprecate any alteration in the law of appeal. It was altered from what it was to what it is, I imagine, because the interference of Sessions Judge and High Courts paralysed the executive. A return to the old system would revise this abuse. With the law as it is, the Deputy Commissioner alone is responsible if his district becomes notorious for crime. Any alteration would enable him to shift the responsibility on to others.

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From Colonel C. H. Hall, Commissioner and Superintendent, Lahore Division, to the Registrar, Chief Court, Punjab,—No. 1209, dated 29th May 1878.

I have the honour to submit the statements received from the Deputy Commissioners of this Division called for in your circular memorandum No. 4-567, and to give my opinion as asked for in your No. 856 (confidential), dated 17th April 1878, for the information of the Judges of the Chief Court.

2. The law which allows security to be taken for good behaviour has not been abused in this division, and has had a salutary effect in decreasing certain classes of offences.

3. If the law is to be amended and an appeal allowed to the Sessions Judge and Chief Court, it should only be in cases where the security ordered has not been funished and the sentence of imprisonment in default is being undergone, and no appeal whatever should lie when the order for security is based on records in evidence of previous convictions.

4. Security for good behaviour has stopped the downward career of many an habitual offender more effectively than renewed heavy sentences. Securities are seldom escheated.

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From Colonel S. F. Graham, Commissioner and Superintendent, Mooltan Division, to the Registrar, Chief Court, Punjab,—No. 744, dated Mooltan, 15th August 1878.

In compliance with your circular memorandum No. 4, of the 26th March last, to address of Deputy Commissioners, I have the honour to submit in original the statements furnished by the District Officers of

this Division, showing the cases of bad livelihood during the years 1875, 1876, and 1877, and with reference to your confidential No. 858, of 7th April 1878, I have the honour to give my opinion regarding the working of the law relative to taking security for good behaviour.

2. I am of opinion that police officers to a great extent abuse the power conferred on them of sending up persons for bad livelihood in the districts of the Punjab, and that, as a rule, Magistrates are not careful to satisfy themselves as to the general character of the accused, but demand security for good behaviour too indiscriminately, to the great oppression and annoyance of the people. The remarks made by Mr. Eden as indicating the state of affairs in the Lower Provinces are equally applicable to this province. The sections of the Code relating to security for good behaviour are brought into use in a manner not intended by the Legislature, while the object aimed at by the sections is defeated.

3. Many police officers seem to be under the impression that whenever an offence against property is committed, there must either be a legal conviction for the specific offence committed, or, failing that, a conviction for bad livelihood. They appear to take almost as much credit to themselves when security for good behaviour is demanded as if the offence committed had been actually proved against the accused. They do not regard it as a proof of their inefficiency and general want of detective abilities, though is it a virtual admission of their inability to detect crime. Whenever a person sent up for an offence against property is discharged or acquitted, and there seems no chance of the case being struck off the register of reported offences, some one or other is almost certain to be chalaned for bad livelihood, unless the police succeed in laying their hands on another person for trial for the original offence.

4. As to the mode in which inquiries in cases of bad livelihood are conducted, the following may be taken as a fair specimen of such an inquiry in the districts of this division as also in many other districts of the Punjab. Two or three lambardárs are sent up along with the person to be bound. They declare that accused is a badmash and associates with notoriously bad characters, or that badmashes are in the habit of frequenting his house. Accused when questioned denies the charge, and perhaps offers two or three witnesses to his good character. The latter are disbelieved, and on the evidence for the prosecution, as given above, the unfortunate accused is pronounced a badmash and condemned to find security for his good behaviour for a certain term. Not one of the questions which would occur to even a person of common capacity is ever asked of the witnesses, such as,—Name some of the badmashes who frequent accused's house. What evil courses do those men follow, and who pronounces them to be badmashes? Have they ever been prosecuted for bad livelihood? Questions such as these would tend to show whether the witnesses were speaking the truth, or whether they were actuated by malice or spite, or acting under the evil influence of others. If persons can be pronounced bad characters on evidence of the nature given above, then there are very few persons indeed who could not be stigmatised as badmashes at the option of their neighbours or enemies. A Magistrate should, to a certain extent, act as counsel to both sides, and cross-examine the witnesses of each side just as the opposite counsel would have done.

5. Sometimes, as pointed out by Colonel Riddell, Deputy Commissioner, Montgomery, the witnesses can say nothing of their own knowledge, but merely make hearsay statements of the most vague description. This is far worse, as the general assertions of the witnesses do not admit of corroboration or proof. Every one says it is generally said so or believed, and it is impossible to trace the rumour, for it is nothing better than a rumour, to its original source. One would have scarcely thought it possible for persons to be condemned on such gossip in a court of justice.

Sometimes a Magistrate, when demanding security for good behaviour, winds up with the remark that if the accused is really innocent, he ought to be able to furnish the required security and keep himself out of jail. This remark may perhaps satisfy any qualms of conscience which the Magistrate may have felt touching the justice of his own order, but it clearly implies a doubt which ought in justice to have turned the scale in accused's favour; and however plausible it may at first appear, it is illogical in the extreme. When a man is judicially declared by a competent Magistrate to be an associate of theives and burglars, and to be of a character so desperate and dangerous that he cannot be let loose on society, unless he furnishes a substantial hostage for his good conduct, he must indeed be a trustful and confiding friend who would risk the loss of his money on the word of such a man, unless the latter bore a totally spotless reputation and an unimpeachable character, and was known by every one to be the victim of jealousy or spite. Very few private individuals would place confidence in a man who could not be trusted by a Magistrate after a public trial.

7. It seems to me that the object with which sections 505 and 506, Criminal Procedure Code, were enacted, is not properly understood by Magistrates and Police Officers, or perhaps it is wilfully perverted by the latter and thoughtlessly countenanced by the former. Many a man earns an honest livelihood under terror of the law, who would gladly take to thieving if he could do so with impunity; others there are who live on quietly in the absence of temptations, but possess a tendency to break out if sorely tempted; while others, again, have lived honest lives for years; and have then committed a crime either under an irresistible temptation or to save themselves from starving. But the sections above alluded to were not intended to apply to any of the above persons. As long as they are free from crime, with whatever motive, the law cannot touch them, and when they commit some offence, they should be punished for it. There is, however, a class of persons of a character so bad and detrimental to the interest of society that the ordinary penal section would never suffice to keep them in proper check. They take to theiving as to an honest trade or profession, and regard it as a means of gaining their livelihood. They commit theft after theft, and burglary after burglary, but owing to the matchless cunning and the peculiarities of the criminal law, it is almost impossible to obtain a conviction against them. They may be sent up by the police, but the Magistrate is compelled to discharge them for want of legal proof, though at the same time every one is morally convinced of their guilt. It is against persons of this class that Sections 505 and 506 were specially directed, for the only way

to punish such persons is to make them furnish proper security for their good behaviour or send them to jail in default of it.

8. There is no doubt whatever that the sections of the Code relating to the taking of security for good behaviour are a powerful instrument of oppression in the hands of the police and can be put to the worst uses if the courts do not effectually control their proceedings. It was recently brought to my notice officially that certain witnesses who had given evidence against a Police Officer on a charge of bribery were sent up one after the other to be tried for bad livelihood. This will give an idea of how the preventive law can be perverted to satisfy a grudge or to get rid of objectionable parties. Sometimes the law is strained and made to apply to persons for whom it was never intended. A person who commits a single offence against property may as well be doomed to perpetual imprisonment for all the chance he has of ever getting out of the clutches of the police. He has his name entered in the police register of badmáshes; he is liable to be sent up as a bad character on the strength of his conviction; he is liable to be arrested and to have his house searched whenever a theft takes place; he is always under the eye of the police; he is suspected and distrusted by everybody; he cannot find honest employment by reason of being registered as a badmásh. If such a man eventually did become a confirmed bad character, it would be scarcely out of place to say that the police literally forced him to become one.

9. There is at present a case pending in my court in which the accused was suspected of being concerned in some offence eight years ago. He was required to furnish security in that case, and the police entered his name in the badmásh register. His conduct has been unexceptionable during the past eight years; he has proved himself to be a useful and respectable member of society; he is a man of property and means, but the police have him down a badmásh to this day. He recently applied to have his name expunged from the register; but though 150 persons gave evidence to his good character, his application was refused. The only thing against him is the *suspicion* of eight years ago; he has never been convicted of a single offence. The police naturally like to keep as many names as they can on their register, so as to be able to harass the persons concerned whenever they choose.

10. It is true that the law allows previous convictions to be proved in cases of bad livelihood, but there ought clearly to be other and *independent* evidence against the accused. The previous convictions can only be presumptive and corroborative evidence of general character. The police are too apt to rely solely on previous convictions. It has been repeatedly ruled that a person convicted of an offence cannot be ordered to be sent up for bad livelihood at the expiration of his term of sentence. The reason is quite clear. He has been punished for what he has done, and it would be inequitable to punish him twice for the same thing. He should be allowed an opportunity of leading an honest life for the future. Further action can be taken against him when it is found that he will not desist from his evil ways, and that the punishment inflicted on him has had no effect on him.

11. In many districts it is the practice for Magistrates, when about to go on tour, to send parwánas to the Deputy Inspectors, directing

them to 'send up their bad characters at their respective villages. If it happens that any Deputy Inspector has no bad characters to produce, some Magistrates would not scruple to tell him that he was either ignorant of the condition of his ilaka, or that he is in league with thieves. The effect of this cannot but be to induce Deputy Inspectors to make up as many cases as they can against innocent men if they cannot get hold of badmáshes. Considering how greatly the people of this country are given to revenge, how little they are actuated by a love of truth, and in what light estimation they hold oaths and affirmations, the amount of tyranny and injustice inflicted on innocent men by the above practice may be easily conceived. Police officers certainly do not require any pressure to be put upon them in the matter of bad characters, and I think it would be sufficient if general instructions were issued once for all to send up bad characters as the Magistrates passed through the different villages, instead of sending special parwánas on each individual occasion.

12. The evils arising from the excessive demand of security for good behaviour are manifold. Apart from the expense to Government, the hardships inflicted on innocent persons and the opportunities afforded to the guilty to mature further plans, there is the fact that when bad characters are excessively harassed in any one district, so that it is made too hot for them to remain any longer in it, they naturally abscond to some other district. It cannot be said that any benefit is conferred on the community at large by their emigration, but, on the contrary, a deal of harm is done, for the police of the district to which they have emigrated know little or nothing about them, and they will be able to prey upon society to a greater extent than they could in their own district.

For the above reasons, I quite agree with Mr. Eden that there is altogether too much resort to the bringing up of persons for bad livelihood on sufficient grounds, by which the police shift their proper responsibility from their own shoulders to the oppression of the people and expense of Government. It is easy for the police to send up all the bad and suspected characters for security or imprisonment and then enjoy their ease, but it is their duty to watch such characters and detect crime. I think Magistrates should exercise the greatest caution in dealing with such cases, and only convict on the clearest evidence those who may be proved to be habituated to crime, and none others. If in any case the person sent up has been previously implicated but let off, the former record should always be looked over to see if, in the opinion of the Magistrate, the accused was innocent, or whether he was released for want of proof. I also think that an appeal should lie to Sessions Courts from all orders of Magistrates requiring security for good behaviour, and that an appeal should lie to the Chief Court from all such orders passed by Magistrates and confirmed by Sessions Courts. It is impossible to exercise too great vigilance in such cases.

From COLONEL A. A. MUNRO, Commissioner and Superintendent, Deraját Division, to the Officiating Registrar, Chief Court, Punjab,—No. 106, dated 21st June, 1878.

IN compliance with your circular memorandum No. 4-567, dated 26th March last, received under endorsement No. 849 of 17th April, I beg to forward classified statements showing the number of persons prosecuted, convicted, and imprisoned for bad livelihood in the districts of this division during the years 1875, 1876, and 1877, and with reference to your No. 859 of the 17th April and its enclosure, I have to state as follows.

2. On a similar confidential reference recently made through the Police Department on the same subject, I remarked, in transmitting the replies of District Officers to Government, that Deputy Commissioners were in favour of maintaining the law as it at present stands, the effects of the measures taken under it since the passing of Act X of 1872 having been undoubtedly beneficial; and I beg to subjoin copy of paragraphs 4, 5, 6, and 7 of a confidential letter, No. 333 of the 8th ultimo, addressed by me to the Inspector-General of Police, Punjab, as embodying my own opinion on the subject under reference.

"*Para. 4.*—I fully concur in the remarks contained in paragraph 2 of the Dera Ghází Khan Deputy Commissioner's report, in which he refers to "organized raids" made on bad characters by an Assistant Commissioner, assisted by a Police Officer, hunt up such as calculated to prejudice and oppress many innocent individuals who may have become obnoxious (from causes other than criminal) to village headmen, or to the neighbouring subordinate Police Officers. Although the District Police Superintendents consider it to be an important part of their duty during inspection tours to search out bad characters, especially in localities where crime is rife, and the means of detection not so successful as might be desired, I am not aware that any systematic or summary hauling up of so-called bad characters at the behest merely of local faction leaders has ever been permitted in this Division.

"*Para. 5.*—The virulence of faction, amongst Patháns especially, is indeed a safeguard against oppression in this respect. An individual of one faction unjustly required to furnish security for good behaviour at the instigation of members of the opposing party will almost invariably have the real state of his case brought to the notice of the District authorities by the watchful members of his own party, and the risk of indiscriminating oppression is thus partly obviated.

"*Para. 6.*—Careful consideration by a European Magistrate of the defence of a man called upon to furnish security for good behaviour, before putting the law in force against him, is, however, as Mr. Fryer observes, the surest safe-guard, and with a full exercise of this discriminating check, there can be no question that the operation of the Security Law is generally beneficial to communities, whilst its action is attended with the least possible risk of injustice or oppression to individuals.

"*Para. 7.*—The population of the Lower Derajat is less naturally disposed to serious crime than that of the Upper and Pathán Districts. Hence it will be seen that Bannu, which somewhat assimilates to Pesháwar in the matter of crime, exhibits the largest number of cases under the Security Law, which isreported to operate there most favourably in the repression of offences."

3. An original letter from the Deputy Commissioner of Dera Ghází Khan, No. 776 of 23rd ultimo, at first sent direct to you, and returned with memorandum of 27th May, is enclosed.

From Major W. G. Waterfield, Officiating Commissioner and Superintendent, Peshâwar Division, to the Officiating Registrar, Chief Court, Punjab,—dated 2nd July 1878.

In reply to your No. 860 of the 17th April, I beg to forward the statements called from the Deputy Commissioners by your office circular memorandum No. 4-567 of 25th March.

2. It will be seen that but few cases were taken up locally, and that nearly all were tried at the head-quarters of the district on the report of the police. The people themselves are afraid to prosecute or give evidence, as among an armed and reckless population they naturally fear revenge.

3. Investigations are conducted exactly like enquiries and trials in the case of other offences. Evidence is given against the accused generally by the police and the village headmen or the most respectable land-owners, and it is only when the two are in collusion that there is danger of injustice being done. When village communities are as divided as in these districts and are broken up into cliques and parties by their private feuds and enmities, there is little fear of a man being victimised; the opposite parties would at once give evidence in his favour and claim his release.

4. The statements accompanying show that out of 1,500 persons prosecuted in the division during the three years, about 80 per cent. were required to give security, of which 80 per cent., but half (or 569) were at first imprisoned in default of security, whilst of these only 173 were detained for more than a month; of these again few were imprisoned over 6 months.

5. I think that the police should give more attention in their towns to enquiring into the present occupation and character of those whose names are registered in the IX and X Registers, and especially of those entered in No. IX as previously convicted. I think that village responsibility and the control of its bad characters should be more vigorously enforced than heretofore.

6. In this division it is necessary to put this law in force "for the prevention of violent crime likely to occur in the prosecution of private feuds or paternal quarrels among Pathân communities," and I quite agree with the Deputy Commissioner of Peshâwar, from whom I am quoting. It is in these cases that an impression may be made upon crime. Burglaries and cattle-lifting, robberies and dacoities, are generally committed either by or in communication with residents from beyond the border, and the offenders are not within the reach of the law.

7. Although I consider it unnecessary to allow an appeal from the order of the Magistrate ordering security to be taken to the Sessions Judge, I see no great objection to it. It will perhaps make police and Magistrates more careful. But if the Magistrate of the District exercises a supervision over such convictions, and orders, as by law he can, I do not see that more is required. He has full authority, and is indeed a court of appeal.

From COLONEL H. N. MILLER, Inspector-General of Police, Punjab, to the Secretary to Government, Punjab,—No. 107, dated 17th July 1878.

I have now the honour to acknowledge the receipt of your letter No. 100S. of the 22nd February (Confidential), regarding the working of the law relative to security for good behaviour, and to regret the delay which has taken place, and which has been caused by the late receipt of the returns called for from Peshávar.

2. In order to explain the working of Chapter XXXVIII of the Code of Criminal Procedure in the Punjab, I am compelled to offer some remarks on the subject of the Bengal statistics. The Government of India state that they are of opinion that the statistics appended to the letter from the Government of Bengal tend to show that, in the Lower Provinces, at all events, the law has been very greatly abused. I say I am compelled to offer some remarks upon the Bengal statistics, because if the above conclusion may be drawn from the simple numbers dealt with in Bengal, much stronger language must be used as regards the Punjab, where the law has been much more extensively worked.

3. I shall first make a few observations, then, in regard to Mr. Cockerell's letter No. 56 of the 22nd August 1877, as my remarks will clear the ground of preliminary difficulties and elucidate the Punjab practice.

4. In the end of paragraph 3 the Secretary writes: "The Lieutenant-Governor is of opinion that there is no greater indication of an inefficient and idle police, and a careless and inconsiderate magistracy, than the admission that crime cannot be checked without locking up, precisely as if they were convicted criminals, all persons of whom it is thought or said by their enemies or neighbours that they are persons who may possibly at some future time or another commit an offence. It is a mode of dealing with crime which would not be tolerated in any country except India. It is a power which it is perhaps necessary to keep in reserve here for the purpose of crushing out offences so peculiar to the country and so dangerous to society as gang-robbery, but it is a power to be used only in very exceptional and rare circumstances."

5. In the first place, the Indian procedure only necessitates the locking up of such persons as cannot get a couple of honest people to go surety for them. The evidence of enemies is of course tainted, but that of neighbours is the best that can be had. I need only point out that the law in England is very much more stringent, allowing imprisonment as a substantive penalty (and not merely in default of furnishing security), and also of whipping. (See 5 Geo. IV. C. 83, Sec. 4, and Sec. 5 read with Sec. 9; also 34 and 35 Vic. C. 112, Sections 4, 5, 7, 8, 10, 11, and 15; for definition of "Crime" see Sec. 20.)

6. Throughout the Bengal correspondence it is assumed that every man ordered to furnish security fails to find it, and is locked up. This is erroneous and misleading. I submit a return for the Punjab showing the number of persons locked up in default of finding security. It is not quite accurate, and in most districts includes the persons who were locked up for a few days only until the nature of their security was verified. The percentage, therefore, of persons imprisoned is much above the true figure.

The numbers were as follows :—

*In 1875,*

5,941 persons were ordered to find security ; 3,111 ; were locked up for various periods, or 52 per cent. locked up.

*In 1876,*

4,808 persons were ordered to find security; 2,196 were locked up for various periods, or 45 per cent. locked up.

*In 1877,*

5,617 persons were ordered to find security; 2,230 were locked up for various periods, or 39 per cent. locked up.

7. At first sight, and compared with the Bengal figures, these numbers appear large. But if a true criterion be taken they will appear but small in relation to the crime of the province. Let us assume that security for good behaviour is only demanded when the accused persons have a reputation for committing crimes against property. I exclude all other cases, because I am anxious rather to understate than to overstate my case.

I will take the Punjab first for the three years 1875, 1876, and 1877. I will suppose that bad characters from whom security is demanded commit only offences under Class III (serious offences against person *and* property, or against property only), and Class V (minor offences against property). Let us take the figures for three years.

| | Number of cases reported. | Number of cases convicted. | Number of persons convicted. |
|---|---|---|---|
| | *In 1875.* | | |
| Class III . . . . . | 8,816 | 2,196 | 3,234 |
| Class V . . . . . | 18,805 | 8,544 | 11,466 |
| TOTAL . . . | 27,621 | 10,740 | 14,700 |
| | *In 1876.* | | |
| Class III . . . . . | 8,322 | 2,250 | 3,421 |
| Class V . . . . . | 18,995 | 8,651 | 11,380 |
| TOTAL . . . | 27,317 | 10,901 | 14,801 |
| | *In 1877.* | | |
| Class III . . . . . | 10,374 | 2,860 | 4,206 |
| Class V . . . . . | 19,674 | 9,309 | 12,748 |
| TOTAL . . . | 30,048 | 12,169 | 16,954 |

I think it will generally be admitted that the number of persons placed on security for good behaviour must depend on the number of offenders known to be preying on the country. If it were possible to stop crime altogether, it would presumably be so possible by locking up (and not merely by taking security) from the whole number of offenders at large. I take for granted the fact that you cannot convict them of the substantive offences. If you could there would be little need for preventive jurisdiction. During the three years in question we had 33,810 cases (of Classes III and V) convicted, and in these cases 46,455 persons were convicted, or 1·37 persons to each case. But it is well known that every person concerned is not convicted in each of the cases. If five persons are concerned and one is convicted the case stands for a convicted case. Thus I am much under the mark if I say that two persons were concerned in every case. Taking this by hypothesis we find —

*In 1875*

There were 27,621 cases under Classes III and V, and consequently 55,242 offenders; of these 14,700 were convicted and 40,542 were left at large. Of course these figures do not exactly represent the true number, as, professionals being excluded, offenders do not operate every year. Let us suppose that the offenders of former years who do not operate, but are still waiting an opportunity, balance the cases where one man operates several times. Again, I say this is understating the case, as the history of ordinary criminals in India shows that they often lead honest lives for two or three years together. On this assumption, then, we have but 40,542 offenders under these classes at large. Supposing that the police arrest and that the Magistrates order security only from these persons, what proportion of them are affected ?—5,941 were ordered to find security, so that presumably 12 per cent. of these persons were restrained from crime, about 6 per cent. of these are restrained, being in jail.

*In 1876,*

applying the same principles, we have 39,833 offenders at large, and 12 per cent. are restrained by security.

*In 1877,*

we have 43,142 offenders at large, and of these 13 per cent. were restrained by security. Of this 13 per cent. (roughly speaking) 4 per cent. were in jail for various terms, most of them very short.

For Bengal I have only the figures for 1876.

There I find that 77,948 offences occurred under these classes; 13,534 cases and 23,483 persons were convicted. This gives 1·7 persons to each case. I should not be far wrong, therefore, in assuming that 2·5 persons were concerned in each case. But let us suppose that only two persons were so concerned. We have therefore 155,896 persons concerned, less 25,483 persons convicted, which leaves 132,413 offenders under these classes at large.

In Bengal 3,618 persons were ordered to find security, or 2 per cent. of certain offenders at large. If the practice corresponds with that in the

Punjab, it is not surprising that the confinement of one per cent. of offenders (against property) at large should produce but small results in the repression of crime.

8. If it is remembered that under no system of police in the world are all offences against property reported, it will be understood how much below the probable truth my figures are. Or, in other words, there are more offenders at large than I show, and the operation of the bad livelihood law is more infinitesimal in its direct results than I have proved it to be. Happily for the country, the indirect benefits are greater than the direct.

9. I believe it to be altogether futile to suppose that taking security for good behaviour will operate against gang-robbery only. As a matter of fact, the same men who committed dacoity in former years now commit only robbery or theft. The reason is, not that they fear the bad livelihood sections of the Criminal Procedure Code, but that we are able to follow more zealously, and with our best officers, a few heinous offences, whilst we cannot possibly pay the same attention to minor offences. It would take a most costly police to do so.

10. In regard to Mr. Cockerell's 5th paragraph as to the increase of crime, I think that it has been overlooked that the increase or decrease of crime is a very complex problem, depending upon a great many social and administrative facts. The state of the harvests in some localities, the price of bread-stuffs in another, rules crime against property to a considerable extent. Content or discontent, decrease of population or increase, and the state of the labour market, are other factors. The strength of the police, whether the officers and men are dispirited or contented, are elements in contending with crime. But a very important feature, and one which the natives of India lay most stress on, is whether the Magistrates of the District are what the people call convicting or acquitting Magistrates.

11. In regard to the effect of prosecutions for bad livelihood or crime, I think I have proved that in Bengal, at least, they have been too few in number to influence the statistics generally in any material way, though in some districts some attempt seems to have been made to influence crime by this means. In the Punjab, also, the net result is small. But a glance at the tabular statements will show that the efforts have been very unevenly distributed. In those districts where systematic action has been taken, the result has been extremely good. But I must mention an element of uncertainty in all these statistics which makes it very difficult to gauge the results that might be anticipated from a given number of prosecutions. Much depends upon the amount of security demanded. In Lahore there has been considerable activity against bad characters, but the results obtained under Mr. J. W. Smyth in 1872 have not been maintained, for the simple reason that the sum conditioned in the bonds has been steadily lowered.

12. In paragraph 20 of his annual review of the Police Report, the Lieutenant-Governor of Bengal comments upon the number of acquittals (25 per cent.) in bad livelihood cases, and this affords me an opportunity of explaining what I may call the distinctive feature of the Punjab system. The essence of our method is to have a local trial in the vicinity of the village in which the bad character lives.

The chief benefit of this system is that witnesses, both for the prosecution and the defence, are at once procurable without trouble to themselves or expense to the State or to the accused. It is much easier to arrive at the truth on the spot than at sadr head-quarters, and for the above reason. There is no offence in which it is more difficult to get witnesses for the prosecution than bad livelihood, if the trial is to be at a distance, or if acquittals are frequent. It stands to reason that in a matter of opinion, such as character, there is more scope for individual idiosyncrasies than in the trial of ordinary offences. We must, therefore, expect a wider range of differences of opinion. In the Punjab the acquittals of cases under this head were—

| | | |
|---|---|---|
| 1875 | 17 | per cent. |
| 1876 | 16 | " |
| 1877 | 18 | " |

I believe that the deliberate conclusion of the Legislative Council in 1872, abolishing appeals to the Court of Session and substituting an appeal to the Magistrate of the District, was a sound and wise decision.

If cases are to be carried in appeal to another district, the witnesses will not come forward. If mistakes are made, or if the law is abused, the Magistrate of the District is on the spot and can apply a much more prompt remedy than the Court of Session. There is also less likelihood of technical failures in a court which has ready access to the facts, than in the divisional court; and as the measure is one rather of an administrative than a judicial character, I should regret to see the retrograde step recommended by Mr. Eden taken.

13. I enclose the original replies received from districts, and would draw attention to the fact that many cases of bad livelihood are taken up spontaneously by Magistrates. In Pesháwar you will observe that the Commissioner attributes the small effect of bad livelihood prosecutions to the want of systematic action on the part of the district staff. Complaint is made that the witnesses will not come forward, but it is evident that one principal reason is that trials are held at Pesháwar and not in the neighbourhood of the villages concerned.

14. The impetus given to prosecutions for bad livelihood in 1873 and succeeding years is attributable to the change in the law, and to Sir Henry Davies' remarks in his review of the Police Report of 1872. He said that one of the causes of the increase of crime was "the inadequate enforcement of the law against bad characters."

15. The difference in some districts in the number of persons imprisoned in default of finding security is very great. In Gujranwala, for instance, the numbers so imprisoned were—

| | | |
|---|---|---|
| 1875 | 7 | per cent. |
| 1876 | 12 | do. |
| 1877 | 8 | do. |

But circumstances vastly differ. Thus, the District Superintendents of Jhelum and Montgomery say that the persons locked up were all absolutely without means of subsistence. In years of scarcity or pressure we have of necessity a large floating population of this kind who wander about in quest of a livelihood.

16. It is impossible to test thoroughly the working of the bad liveli-

hood sections of the Criminal Procedure Code by statistics. As the Commissioner of the Derajat and the Deputy Commissioner of Dera Gházi Khan say, the true check on the abuse of the law is the careful and conscientious consideration of the defence offered by the accused by the European Magistrate. On the whole, I am satisfied that the provisions of the law are worked with caution. In some districts I should be glad to see the numbers somewhat reduced and the sums demanded by way of security increased; but in most districts I am convinced that more might be wisely done. Unless, however, an experienced European Magistrate can be spared to take up these cases in camp, I would far rather see too little than too much activity in this direction.

# STATEMENT I.

POLICE.] *Return showing the number of bad livelihood prosecutions during the years 1875, 1876, and 1877.* [PUNJAB.

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1875. | | | | | | | 1876. | | | | | | | 1877. | | | | | | |
| | | | NUMBER OF PERSONS IMPRISONED IN DEFAULT. | | | | | | | NUMBER OF PERSONS IMPRISONED IN DEFAULT. | | | | | | | NUMBER OF PERSONS IMPRISONED in DEFAULT. | | | | |
| DISTRICTS. | Number of persons prosecuted. | Number of persons ordered to find security. | Three months and under. | Six months and under. | One year and under. | Two years and under. | Three years and under. | Number of persons prosecuted. | Number of persons ordered to find security. | Three months and under. | Six months and under. | One year and under. | Two years and under. | Three years and under. | Number of persons prosecuted. | Number of persons ordered to find security. | Three months and under. | Six months and under. | One year and under. | Two years and under. | Three years and under. |
| Delhi | 358 | 277 | 2 | 27 | 88 | ... | ... | 238 | 156 | 37 | 38 | 63 | ... | ... | 219 | 181 | 2 | 20 | 33 | ... | ... |
| Gurgaon | 72 | 43 | ... | 13 | 25 | ... | ... | 73 | 29 | ... | 7 | 20 | ... | ... | 53 | 28 | 4 | 16 | 7 | ... | ... |
| Karnal | 85 | 58 | ... | 6 | 29 | ... | ... | 142 | 142 | ... | 6 | 55 | ... | ... | 173 | 173 | ... | 9 | 14 | ... | 2 |
| Hissar | 152 | 110 | ... | ... | 2 | ... | ... | 62 | 57 | ... | 3 | 7 | ... | ... | 123 | 101 | ... | 3 | 6 | ... | ... |
| Rohtak | 146 | 116 | 51 | 7 | 12 | ... | ... | 157 | 130 | 67 | 10 | 11 | ... | ... | 135 | 105 | 66 | 15 | 5 | ... | ... |
| Sirsa | 86 | 82 | ... | 12 | 11 | ... | ... | 122 | 111 | ... | 3 | 17 | ... | ... | 42 | 28 | ... | 7 | 11 | ... | ... |
| Umballa | 82 | 55 | 17 | 18 | 20 | ... | ... | 285 | 211 | 106 | 72 | 33 | ... | ... | 372 | 252 | 75 | 61 | 116 | ... | ... |
| Ludhiana | 85 | 78 | 2 | 6 | 51 | ... | ... | 67 | 65 | ... | 17 | 28 | ... | ... | 78 | 66 | ... | 12 | 23 | ... | ... |
| Simla | 10 | 10 | ... | 7 | 3 | ... | ... | 10 | 10 | ... | 9 | 1 | ... | ... | 17 | 13 | ... | 9 | 4 | ... | ... |
| Ferozepore | 783 | 771 | ... | 3 | 768 | ... | ... | 178 | 172 | ... | 13 | 159 | ... | ... | 42 | 25 | ... | 5 | 20 | ... | ... |
| Jullundur | 74 | 52 | 2 | 16 | 13 | ... | ... | 48 | 41 | 4 | 18 | 11 | 1 | ... | 74 | 61 | ... | 18 | 25 | ... | ... |
| Hoshiarpur | 108 | 84 | 1 | 29 | 14 | ... | 1 | 69 | 54 | ... | ... | 26 | ... | ... | 123 | 90 | 4 | 1 | 34 | ... | ... |
| Kangra | 16 | 12 | ... | 6 | 2 | ... | ... | 20 | 7 | ... | 3 | 4 | ... | ... | 43 | 27 | 4 | 12 | 10 | ... | ... |

| | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Amritsar | 199 | 182 | 46 | 21 | 17 | 1 | ... | 502 | 430 | 82 | 22 | 10 | ... | ... | 223 | 165 | 51 | 24 | 15 | ... | ... |
| Gurdaspur | 208 | 152 | 1 | 29 | 76 | ... | ... | 194 | 148 | 6 | 15 | 78 | ... | 2 | 116 | 91 | 3 | 21 | 66 | ... | 1 |
| Lahore | 1,775 | 1,511 | 9 | 31 | 25 | ... | 5 | 1,025 | 969 | 11 | 24 | 17 | ... | 1 | 1,655 | 1,335 | 5 | 13 | 9 | ... | ... |
| Mooltan | 227 | 177 | 78 | 37 | 54 | ... | ... | 79 | 54 | 15 | 3 | 26 | ... | ... | 150 | 137 | 61 | 7 | 8 | ... | ... |
| Jhang | 71 | 56 | 14 | 15 | 11 | ... | ... | 124 | 99 | 25 | 9 | 7 | ... | ... | 34 | 15 | 8 | 5 | 1 | ... | ... |
| Montgomery | 283 | 212 | 107 | 12 | 5 | ... | ... | 84 | 64 | 36 | 7 | 5 | ... | ... | 171 | 139 | 97 | 7 | 10 | ... | 2 |
| Muzaffargarh | 196 | 150 | 100 | 12 | 38 | ... | ... | 25 | 25 | 14 | 5 | 6 | ... | .. | 30 | 21 | 10 | 3 | 8 | ... | ... |
| Sialkot | 106 | 73 | 27 | 18 | 11 | ... | ... | 97 | 82 | 31 | 13 | 15 | ... | ... | 148 | 110 | 59 | 20 | 25 | ... | ... |
| Gujranwala | 314 | 238 | 3 | 8 | 6 | ... | 1 | 578 | 536 | 44 | 6 | 14 | ... | ... | 1,031 | 973 | 5 8 | 5 | 18 | ... | ... |
| Rawalpindi | 176 | 139 | 51 | 37 | 48 | 1 | 2 | 145 | 118 | 51 | 36 | 30 | .. | 1 | 140 | 109 | 42 | 24 | 38 | 1 | 4 |
| Jhelum | 116 | 72 | 32 | 14 | 12 | 1 | ... | 152 | 131 | 59 | 19 | 19 | ... | 1 | 186 | 130 | 38 | 24 | 15 | ... | 10 |
| Gujrat | 49 | 32 | 18 | 4 | 4 | ... | ... | 219 | 175 | 51 | 21 | 35 | | ... | 137 | 107 | 61 | 5 | 18 | 1 | ... |
| Shahpur | 82 | 73 | 31 | 2 | 9 | 1 | ... | 234 | 190 | 49 | 7 | 5 | ... | 1 | 168 | 138 | 25 | 1 | 2 | ... | ... |
| Dera Ismáil Khan | 146 | 125 | 48 | 7 | 23 | ... | ... | 112 | 94 | 51 | 6 | 26 | ... | ... | 143 | 131 | 62 | 14 | 28 | ... | ... |
| Dera Ghází Khan | 170 | 156 | ... | 20 | 96 | ... | 4 | 161 | 126 | 1 | 27 | 57 | ... | 1 | 197 | 168 | ... | 19 | 55 | ... | 8 |
| Bannu | 379 | 326 | 142 | 10 | 6 | ... | ... | 207 | 126 | 50 | 5 | 2 | ... | ... | 334 | 258 | 103 | 5 | 13 | ... | ... |
| Pesháwar | 358 | 257 | 9 | 26 | 124 | 1 | 9 | 220 | 173 | 9 | 24 | 109 | ... | 2 | 366 | 280 | 23 | 26 | 147 | 3 | 16 |
| Hazara | 96 | 48 | 10 | 1 | 2 | ... | ... | 45 | 32 | ... | ... | ... | ... | ... | 57 | 43 | 9 | ... | ... | ... | .. |
| Kohat | 216 | 214 | 204 | 3 | 7 | ... | ... | 66 | 51 | 45 | 2 | 4 | ... | ... | 137 | 117 | 110 | 6 | 1 | ... | ... |
| TOTAL | 7,197 | 5,941 | 1,005 | 467 | 1,612 | 5 | 22 | 5,740 | 4,808 | 836 | 450 | 900 | 1 | 9 | 6,887 | 5,617 | 980 | 417 | 785 | 5 | 43 |

H. N. MILLER, *Colonel,*
*Inspector-General of Police, Punjab.*

*Return showing the number of previous convictions proved against persons ordered to furnish security for good behaviour during the years 1875, 1876, and 1877.*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|
| | | | Number of persons having | | | | | |
| Districts. | Years. | Total number of persons ordered to find security (Col. 3 of Statement I.) | No previous conviction. | One previous conviction. | Two previous convictions. | Three previous convictions. | Four previous convictions. | Five previous convictions and more. |
| Delhi | 1875 | 277 | 196 | 25 | 25 | 8 | 8 | 15 |
| | 1876 | 156 | 87 | 15 | 26 | 10 | 11 | 7 |
| | 1877 | 181 | 156 | 4 | 11 | 5 | 3 | 2 |
| Gurgaon | 1875 | 43 | 24 | 17 | 1 | ... | 1 | ... |
| | 1876 | 29 | 15 | 12 | 2 | ... | ... | ... |
| | 1877 | 28 | 20 | 8 | ... | ... | ... | ... |
| Karnal | 1875 | 58 | 46 | 6 | 1 | 1 | 2 | 2 |
| | 1876 | 142 | 80 | 30 | 12 | 14 | 2 | 4 |
| | 1877 | 173 | 66 | 57 | 30 | 13 | 3 | 4 |
| Hissar | 1875 | 110 | 58 | 24 | 18 | 5 | 4 | 1 |
| | 1876 | 57 | 38 | 6 | 4 | 6 | 1 | 2 |
| | 1877 | 101 | 83 | 2 | 4 | 4 | 1 | 7 |
| Rohtak | 1875 | 160 | 77 | 25 | 3 | 6 | 5 | ... |
| | 1876 | 130 | 93 | 27 | 6 | 3 | 1 | ... |
| | 1877 | 105 | 73 | 17 | 10 | 2 | 3 | ... |
| Sirsa | 1875 | 82 | 23 | 48 | 7 | 3 | 1 | ... |
| | 1876 | 111 | 54 | 36 | 12 | 9 | ... | ... |
| | 1877 | 28 | 14 | 8 | 4 | 2 | ... | ... |
| Umballa | 1875 | 55 | 45 | 9 | 1 | ... | ... | ... |
| | 1876 | 211 | 167 | 34 | 7 | 2 | 1 | ... |
| | 1877 | 252 | 187 | 61 | 2 | 2 | ... | ... |
| Ludhiana | 1875 | 78 | 12 | 37 | 19 | 3 | 3 | 4 |
| | 1876 | 65 | 25 | 24 | 11 | 2 | 2 | 1 |
| | 1877 | 66 | 12 | 27 | 15 | 6 | 2 | 4 |
| Simla | 1875 | 10 | 6 | 2 | 2 | ... | ... | ... |
| | 1876 | 10 | 7 | 2 | 1 | ... | ... | ... |
| | 1877 | 13 | 4 | 7 | 1 | ... | ... | 1 |
| Ferozepore | 1875 | 771 | 262 | 291 | 149 | 48 | 17 | 4 |
| | 1876 | 172 | 100 | 45 | 17 | 5 | 4 | 1 |
| | 1877 | 25 | 9 | 6 | 1 | 3 | 2 | 4 |
| Jallundur | 1875 | 52 | 37 | 5 | 4 | 3 | 2 | 1 |
| | 1876 | 41 | 36 | ... | 1 | 2 | 1 | 1 |
| | 1877 | 61 | 46 | 7 | 3 | 2 | 1 | 2 |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|
| | | | Number of persons having | | | | | |
| Districts. | Years. | Total number of persons ordered to find security (Col. 3 of Statement I.) | No previous conviction. | One previous conviction. | Two previous convictions. | Three previous convictions. | Four previous convictions. | Five previous convictions and more. |
| Hoshiarpur | 1875 | 84 | 30 | 25 | 14 | 2 | 5 | 8 |
| | 1876 | 54 | 22 | 8 | 10 | 5 | 4 | 5 |
| | 1877 | 90 | 32 | 17 | 14 | 18 | 3 | 6 |
| Kangra | 1875 | 12 | 11 | 1 | ... | ... | ... | ... |
| | 1876 | 7 | 5 | ... | ... | 1 | ... | 1 |
| | 1877 | 27 | 16 | 5 | 2 | 4 | ... | ... |
| Amritsar | 1875 | 182 | 97 | 26 | 45 | 5 | 5 | 4 |
| | 1876 | 430 | 162 | 100 | 92 | 38 | 13 | 25 |
| | 1877 | 165 | 65 | 44 | 25 | 13 | 7 | 11 |
| Gurdaspur | 1875 | 152 | 88 | 30 | 17 | 14 | 3 | ... |
| | 1876 | 148 | 121 | 8 | 12 | 3 | 4 | ... |
| | 1877 | 91 | 63 | 16 | 5 | 4 | 3 | ... |
| Lahore | 1875 | 1,511 | 595 | 567 | 238 | 71 | 31 | 9 |
| | 1876 | 969 | 406 | 421 | 81 | 48 | 5 | 8 |
| | 1877 | 1,335 | 576 | 588 | 104 | 45 | 9 | 13 |
| Mooltan | 1875 | 177 | 80 | 37 | 32 | 21 | 5 | 2 |
| | 1876 | 54 | 34 | 10 | 4 | 3 | ... | 3 |
| | 1877 | 137 | 62 | 50 | 16 | 6 | 2 | 1 |
| Jhang | 1875 | 56 | 40 | 6 | 6 | 3 | 1 | ... |
| | 1876 | 99 | 78 | 10 | 5 | 6 | ... | ... |
| | 1877 | 15 | 11 | 2 | 1 | 1 | ... | ... |
| Montgomery | 1875 | 212 | 104 | 57 | 40 | 7 | 4 | ... |
| | 1876 | 64 | 30 | 13 | 13 | 7 | 1 | ... |
| | 1877 | 139 | 69 | 32 | 23 | 10 | 4 | 1 |
| Muzaffargarh | 1875 | 150 | 123 | 19 | 4 | 3 | ... | 1 |
| | 1876 | 25 | 21 | 4 | ... | ... | ... | ... |
| | 1877 | 21 | 15 | 6 | ... | ... | ... | ... |
| Sialkot | 1875 | 73 | 25 | 21 | 10 | 10 | 7 | ... |
| | 1876 | 82 | 55 | 10 | 5 | 6 | 6 | ... |
| | 1877 | 110 | 57 | 26 | 10 | 11 | 6 | ... |
| Gujranwala | 1875 | 238 | 46 | 64 | 54 | 36 | 16 | 22 |
| | 1876 | 536 | 118 | 110 | 183 | 74 | 35 | 16 |
| | 1877 | 973 | 202 | 333 | 257 | 100 | 44 | 37 |
| Rawalpindi | 1875 | 139 | 76 | 27 | 14 | 12 | 6 | 4 |
| | 1876 | 118 | 56 | 31 | 16 | 4 | 4 | 7 |
| | 1877 | 109 | 53 | 15 | 15 | 12 | 9 | 5 |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|
| | | | NUMBER OF PERSONS HAVING | | | | | |
| DISTRICTS. | Years. | Total number of persons ordered to find security (Col. 3 of Statement I.) | No previous conviction. | One previous conviction. | Two previous convictions. | Three previous convictions. | Four previous convictions. | Five previous convictions and more. |
| Jhelum | 1875 | 72 | 38 | 22 | 9 | 2 | 1 | ... |
| | 1876 | 131 | 56 | 46 | 21 | 4 | 4 | ... |
| | 1877 | 130 | 38 | 51 | 24 | 10 | 3 | 4 |
| Gujrat | 1875 | 32 | 19 | 5 | 2 | 4 | ... | 2 |
| | 1876 | 175 | 89 | 37 | 30 | 9 | 5 | 5 |
| | 1877 | 107 | 69 | 17 | 12 | 1 | 4 | 4 |
| Shahpur | 1875 | 73 | 48 | 14 | 7 | 1 | 1 | 3 |
| | 1876 | 190 | 62 | 56 | 43 | 22 | 4 | 3 |
| | 1877 | 138 | 67 | 26 | 25 | 10 | 8 | 2 |
| Dera Ismail Khan | 1875 | 125 | 95 | 29 | 1 | ... | ... | ... |
| | 1876 | 94 | 68 | 20 | 5 | ... | ... | 1 |
| | 1877 | 131 | 97 | 23 | 7 | 4 | ... | ... |
| Dera Ghazi Khan | 1875 | 156 | 91 | 51 | 8 | 2 | 2 | 2 |
| | 1876 | 126 | 87 | 29 | 5 | 4 | 1 | ... |
| | 1877 | 168 | 128 | 31 | 7 | 1 | ... | 1 |
| Bannu | 1875 | 326 | 191 | 126 | 5 | 4 | ... | ... |
| | 1876 | 126 | 80 | 29 | 13 | 3 | 1 | ... |
| | 1877 | 258 | 154 | 103 | 1 | ... | ... | ... |
| Peshawar | 1875 | 257 | 192 | 60 | 2 | 3 | ... | ... |
| | 1876 | 173 | 128 | 46 | 8 | 1 | ... | ... |
| | 1877 | 280 | 161 | 104 | 6 | 8 | 1 | ... |
| Hazara | 1875 | 48 | 39 | 7 | ... | 1 | ... | 1 |
| | 1876 | 32 | 32 | ... | ... | ... | ... | ... |
| | 1877 | 43 | 41 | 2 | ... | ... | ... | ... |
| Kohat | 1875 | 214 | 207 | 4 | ... | 3 | ... | ... |
| | 1876 | 51 | 46 | 3 | 1 | 1 | ... | ... |
| | 1877 | 117 | 90 | 13 | 7 | 7 | ... | ... |
| TOTAL | 1875 | 5,941 | 3,021 | 1,687 | 738 | 281 | 130 | 84 |
| | 1876 | 4,808 | 2,458 | 1,222 | 646 | 292 | 110 | 90 |
| | 1877 | 5,617 | 2,736 | 1,708 | 642 | 304 | 118 | 109 |
| GRAND TOTAL, 1875, 1876, | 1877 | 16,366 | 8,215 | 4,617 | 2,026 | 877 | 358 | 283 |

H. N. MILLER, *Colonel,*
*Inspector-General of Police, Punjab.*

From COLONEL J. C. P. BAILLIE, Deputy Inspector-General of Police, Umballa Circle, to the Inspector-General of Police, Punjab,—No. 23, dated 1st June, 1878.

I have the honour to transmit Statements I and II in the form prescribed showing the result of prosecutions for bad livelihood in Districts of the Umballa Circle, as called for by your confidential letter No. 18 of 4th March.

2. The results of giving full effect to sections 504—6 of the Criminal Procedure Code are to produce an immediately beneficial effect on crime. I need but cite, as an example, the Ferozepore District, and invite a comparison of the returns of crime during the administration of Captain Grey, Deputy Commissioner, and those of the years antecedent. Every District Superintendent records the fact that crime increases in direct proportion to the decrease of repressive measures against known bad characters; this is fully borne out by police statistics.

3. The returns from districts are defective in not showing the number of persons who remained the full time in jail in default of furnishing security: the proportion appears to fluctuate very much in Ferozepore. Out of 771 persons required to furnish security in 1875, 768 were in the first instance committed to jail, but only 81 of those, or 11 per cent., remained the full time in jail; in 1876 the proportion was 15 per cent.; in 1877 it rose to 20 per cent. This is intelligible, as each year security being demanded from fewer persons, and these being the most notoriously criminal, they naturally found it more difficult to find sureties.

In Gurgaon the proportion who remained the full time in jail is reported as 82 per cent.

4. It will be seen from the returns that in the three years under review, the number of persons called upon to furnish security who had not been previously convicted was 2,039, while the aggregate of those who had been convicted from one to five times previously was but 1,616, thereby showing that the law is enforced rather against those who are known to the country as criminals than against those known merely to the law as such.

5. The system now generally adopted is for a Magistrate to be deputed to proceed into camp accompanied by a police officer; and evidence is taken on the spot as to the character of such persons as may be brought forward either by the police or by the headmen of villages as being of notoriously criminal character, and who are dangerous to the well-being of the community.

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From LIEUT.-COLONEL A. H. BAMFIELD, Deputy Inspector-General of Police, Lahore Circle, to the Inspector-General of Police, Punjab,—No. 43, dated 7th May 1878.

I have the honour to submit the information required by your confidential No. 18, dated 4th March last. There has been more delay than should have occurred, owing to the non-receipt, until the 1st of this month, of some of the district reports.

2. It is difficult to determine to what extent the system of demanding security from known bad characters really affects crime, because the fluctuation in crime is affected by so many causes; and I think it is by

no means easy to say to which of such causes the increase or decrease may be rightly attributed.

3. I have no doubt that, when judiciously worked, the system of requiring persons of known bad character to furnish security for good behaviour is a most beneficial one, and acts as a decided deterrent.

4. The object of the police in sending up persons of ill repute to Magistrates is not that such persons may be put into prison, and so the police be saved the trouble of looking after them, but their action is solely for public good, that known thieves and receivers of stolen property may be restrained.

5. Magistrates are extremely cautious in permitting prosecutions under the bad livelihood sections. Enquiries in such cases being always made either at or close to the villages in which such persons reside, so that neither they nor the witnesses are put to any avoidable inconvenience. And, further, Magistrates do not accept the mere statements of the police, but make full and careful enquiry in each case.

6. The opinion of the people on this subject is decidedly in favour of the enforcement of the law as regards prosecutions for bad livelihood, and I am sure that, worked as it is in the Punjab, this system is not an engine of oppression in the hands of the police.

7. I think it will be more satisfactory if I submit for your perusal the original district reports.

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From C. A. C. Plowden, Esq., District Superintendent of Police, Jullundur, to the Deputy Inspector-General of Police, Lahore Circle,—dated 27th April 1878.

In reply to your confidential memorandum No. 21-1878, dated 12th ultimo, on the subject of the working of the "bad livelihood" sections of the Criminal Procedure Act, I have the honour to report as follows:—

(A.) The effect of the order requiring persons to furnish security for good behaviour on crime generally has been undoubtedly good, and the measure acts as a potent deterrent on those with a criminal proclivity.

There are many men in each district without any ostensible means of livelihood, and apparently unwilling to support themselves in an honest manner; and when a villager is unable to produce men of respectability, who are prepared to stand security for his good behaviour, it is strong *primâ facie* evidence that he is a dangerous member of society. When attesting Registers IX and X, it is common enough for the headmen of the villages to give a man a character for honesty, which is, however, immediately retracted on the crucial test being applied as to their willingness to furnish security for him. The evidence as to character and antecedents of a man accused under section 505 of Act X has to undergo severe magisterial scrutiny, the police merely passing on such reports as reach them to his discredit, and an individual generally condemned by the country-side, and who can find no one to assume the respectability of his correct behaviour, may pretty surely be entered as obnoxious to the public weal.

(B.) The number of persons who were imprisoned in default of security was—

| | | | | | |
|---|---|---|---|---|---|
| In | 1875, | 27 | out of | 52 | convicted. |
| " | 1876, | 21 | do. | 41 | do. |
| " | 1877, | 23 | do. | 61 | do. |

The police records do not contain the information called for under this paragraph, namely, as regards the duration of imprisonment undergone by those who were subsequently able to furnish security; they have perforce been entered as released on security.

(C.) The information called for under this paragraph is contained in the prescribed returns A and B, herewith forwarded. As I have already endeavoured to express, the people known to the country-side as criminals require more careful surveillance than those who have been previously convicted, perhaps once; the latter have tasted the fruits of crime, and may possibly reform; those who are voluntarily denounced by their neighbours, &c., residents, as dangerous to the public weal, may generally be regarded as incorrigible.

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From D. H. Hunter, Esq., Officiating District Superintendent of Police, Hoshiarpur, to the Deputy Inspector-General of Police, Lahore Circle,—No. 172, dated 12th April, 1878.

With reference to confidential No. 18, dated 4th March 1878, from the Inspector-General of Police, to all Deputy Inspectors-General, has the honour to here enclose the statements called for.

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From Colonel J. W. Orchard, District Superintendent of Police, Kángra, to the Deputy Inspector-General of Police, Lahore Circle,—No. 98, dated 26th April, 1878.

In reply to his confidential docket No. 23-1878, dated 12th March, respecting Inspector-General's No. 18 of 4th, has the honour to report that crime against property is seldom committed by residents of this jurisdiction, but invariably traced to criminals of other districts, and therefore persons are not often called on for security.

2. The measure is an excellent one and very effective against professional criminals.

3. Sections 404 and 405 of Criminal Procedure Code has always been enforced against persons of known bad characters, when the inhabitants as well as the police have found it necessary to exact the law from them.

4. There are four cases on record in 1875 that persons concerned have afforded securities and have not gone to jail, and one person was in 1877 placed on his own recognizance, and one underwent imprisonment for four months and then gave security for the remainder of the twelve months.

5. The number of previous convictions against persons are noticed in the accompanying returns for 1875, 1876, 1877.

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From J. McAndrew, Esq., District Superintendent of Police, Amritsar, to the Deputy Inspector-General of Police, Lahore Circle,—No. 241, dated 15th April 1878.

Has the honour to forward returns called for. These returns furnish all the information called for in paragraph 1—*b* and *c* of Inspector-General's circular 18 of 4th March.

With regard to section (*a*) of paragraph 1, the undersigned has considerable difficulty in giving an opinion on the causes which effect crime being so various and so little known. In column of Remarks in Return I, he has shown the number of cases reported under Classes III and V for each year. From this it will be seen that there is little difference in number of these cases for years 1875 and 1876, notwithstanding that the number of convictions for bad livelihood in the latter year was more than double that in the former. The average price of grain in 1875 was 21 seers 12 chittacks; in 1876, 25 seers 3 chittacks. Thus, notwithstanding that the convictions for bad livelihood were more than double and grain considerably cheaper, the decrease in crimes against property was very little. This, the undersigned considers, proves that the prosecutions for bad livelihood had little effect in keeping down crime.

In 1877 the number of convictions was nearly the same as in 1875. The price of grain was 25 seers 2 chittacks. Still crime increased considerably.—another proof that these prosecutions had little effect.

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From J. H. Herdon, Esq., District Superintendent of Police, Gurdaspur, to the Deputy Inspector-General of Police, Lahore Circle,—No. 3, dated 16th April 1878.

I have the honour to forward statements called for in your confidential docket No. 20 of the 12th March.

2. It will be seen that the statistics of the last three years show a gradual decrease in the prosecutions for bad livelihood, which furnishes evidence that such prosecutions were not influenced by any increase in crime owing to bad harvests, but by the actual character of certain members of the population who were found after careful enquiry to be men of known criminal repute, and the action thus taken against them was held to be necessary in very many instances after local enquiries by the convicting Magistrates.

3. Offences against property, Classes III and V of the Schedule, during the three years under consideration, give the following number of cases:—

| | 1875. | 1876. | 1877. |
|---|---|---|---|
| | 1,130. | 1,477. | 1,802. |
| | s. c. | s. c. | s. c. |
| Average selling rate of wheat | 25 12 | 23 9 | 22 9 |

4. No serious deterioration is apparent in the selling rate of wheat, but the rise in crime notwithstanding is remarkable; this is due, not to there being a scarcity of grain in the market, but to a failure in produce and to the labouring classes not having the means of buying grain, payments to them for work being in kind, as a rule, and not in money.

5. I have also to state that the prosecutions noted in the statement have been carried out against 27 different castes in 1876, and against 25 in 1877, thus showing that the attention of the police has not been directed to the locking up certain classes against whom any prejudice may have existed, but to the well-being of the people in causing security to be taken from known bad characters.

From MAJOR O. MENZIES, District Superintendent of Police, Lahore, to the Deputy Inspector-General of Police, Lahore Circle,—No. 3, dated 9th April 1878.

I have the honour to submit the two returns called for in your No. 18-1078 (confidential), giving the information regarding the working of the vagrancy sections, Criminal Procedure Code, in this district during the years 1875, 1876, 1877; as also a statement showing the effect upon nominal crime since 1872. I regret to have to state that the totals here given do not, I find, tally with those shown in the Annual Returns as regards columns 2 and 3 of No. I Return, and in my endeavour to detect the errors has arisen the delay in replying.

A system existed prior to March 1877 of sending in no charge registers in bad livelihood cases, but one general list was sent in from each station as soon as the Magistrate who had been out taking security completed the work in each station, and on calling for returns from Bhir stations, I find that in Sharakpur and Mangtanwala alone 268 men were put on security early in 1877, and that their lists were not included in the Annual Return. The totals given in the Annual Return are correct so far as regards all entries in the General Crime Register.

I have therefore compiled the returns now submitted from Station Books No. 9 as far as numbers given in column 3 of Return I., and columns 4, 5, 6, 7, 8 and 9 of Statement No. II are concerned.

The difference of persons ordered to find security as shown in column 3, Return I, and in Statement A of the Annual Returns for 1875, 1876, and 1877, is only 66, the latter being 3,749, 3,815 now shown. Columns 4 to 8 of Return No. I have been compiled from the Jail Registers, kindly placed at my disposal by the Superintendent, Central Jail, and a nominal list could be given, if necessary.

Return II shows that considerably more than half the total number called upon to find security for good behaviour have been previously convicted of offences on second convictions for which they rendered themselves liable to enhanced punishment under section 75, Indian Penal Code.

All these cases have been tried by Magistrates in camp, if not at the very villages, still within a few miles of the same, at some convenient centre, and thus little or no inconvenience has been entailed upon those who gave evidence, namely,—zaildárs and lambardárs.

In very few only was police evidence taken or admitted beyond proving convictions against individuals, and as far as possible all action on the part of the police beyond that of being the machinery used to summon parties and to bring them up for orders, &c. has been discountenanced, and consequently there has been very little power in the hands of the police. The effect upon crime has not been so signal during the three years for which the statements give statistics as during the three preceding, simply because, as remarked by me in my Annual Report, sufficiently heavy security has not been demanded, and the system commenced by Mr. J. W. Smyth, Deputy Commissioner, in 1872, and which he proposed carrying out had he remained here, has been lost sight of, *viz.*, to year by year sift out the worst characters of the previous years, and, allowing the rest to go free, to demand higher and higher security until, it was hoped, we should succeed in getting the most noted and incorrigible bad characters well in hand on heavy security.

In 1872, at least 75 per cent. of those put on security had to give over Rs. 100 security in the last three years. This proportion has come down to 23 per cent., so that now 75 per cent. give light security, which is of no effect.

Another drawback has been that seldom has the same Magistrate gone twice round the district, and consequently former years' experience and knowledge of the people, &c., has been lost, and the new officer has had to begin over again. Worked as the system was by Mr. J. W. Smyth, it was and would have been always of the utmost value as a prevention against crime, but worked as it is now, it has, I fear, lost much of its power in that respect.

To judge of the efficacy of the system, we need only go about the villages and take the opinion of the general public, who are unanimously in favour of it, and although here and there cases of spite have shown themselves, still the voice of the respectable members of the village communities is for the strict enforcement of the law; and when they see it enforced at their very doors without being dragged into the sadr to give evidence, they give evidence freely and willingly.

The very small number of persons actually sent to jail in default,—265 out of 3,815 in three years, out of whom, moreover, 115 eventually were released on security being forthcoming—shows that even the bad characters have not been harshly treated, and have had every opportunity given them to avoid jail.

I may add that owing to all the securities taken in the early part of 1877, for one year and under, having fallen in during the past quarter, and no action having been taken to enforce this part of the law this year, we have a large increase of crime—nearly 25 per cent. more than last quarter, and considerably more than 50 per cent. as compared with first quarter of 1877.

Scarcity and high prices have, of course, something to do with this increase, but the non-enforcement of these portions of the law has undoubtedly its share in the said increase.

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From H. W. JACKSON, Esq., District Superintendent of Police, Mooltan, to the Deputy Inspector-General, of Police, Lahore.

IN compliance with Inspector-General's confidential circular No. 18, dated 4th March, I return the forms filled in as required.

My predecessor has left no written opinion of his views on the subject, but I believe he considered that only those who had convictions against them should, as a rule, be sent up.

2. For such a large district, and taking into consideration the amount of crime, I should say the numbers put on security were very small.

| | Thefts, cattle. | Thefts, property. | Burglaries. |
|---|---|---|---|
| 1875 . . | 149 | 582 | 346 |
| 1876 . . | 232 | 652 | 386 |
| 1877 . . | 272 | 578 | 466 |

In 1876, as noted in the form enclosed, very few were put on security. The crops were good, yet there was a great increase in crime over 1875, in which year 177 were put on security. In 1877, numbers of cases still high, but the partial destruction of the rabi by rain in all

probability accounts for the large number of burglaries recorded. I would point out the large increase in the number of those who, in 1877, were able to furnish security at once.

Security invariably taken for one year. So the enclosed form shows length of time persons remained in jail before they gave security.

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From C. ALDRIDGE, Esq., District Superintendent of Police, Jhang, to the Deputy Inspector-General of Police, Lahore Circle,—dated 25th March 1878.

I have the honour to forward Statements I and II, as called for by the Inspector-General of Police in his printed confidential circular No. 18 of 4th instant, and trust the information therein contained is what is required.

2. In my opinion, placing on security individuals who have been convicted more than once of a criminal offence, and treating in the same manner those men who, though never convicted, are yet known to the police, and respectable people of villages in their vicinity, as bad characters, has a marked effect in decreasing crimes of a heinous nature.

3. The following statement shows the fluctuation in crime in each year excluding Class VI :—

| | 1875. | | Average price of wheat 22 seers 9 chittacks. | 1876. | | Average price of wheat 25 seers 9 chittacks. | 1877. | | Average price of wheat 26 seers 3 chittacks. |
|---|---|---|---|---|---|---|---|---|---|
| | Increase. | Decrease. | | Increase. | Decrease. | | Increase. | Decrease. | |
| Class I | ... | 1 | | 6 | ... | | ... | 3 | |
| Class II | ... | 11 | | ... | 5 | | ... | 1 | |
| Class III | 30 | ... | | ... | 39 | | ... | 7 | |
| Class IV | 7 | ... | | ... | 27 | | 18 | ... | |
| Class V | ... | 58 | | ... | 56 | | ... | 67 | |
| TOTAL | 37 | 70 | | 6 | 127 | | 18 | 78 | |

4. The following statement contains the information required under heading (*b*) of the Inspector-General's circular :—

| YEARS. | Number of persons ordered to furnish security. | Number of persons who complied with the order at once. | Number of persons who remained in Jail only part of the time during which the Magistrate proposed to bind them. |
|---|---|---|---|
| 1875 | 56 | 16 | 40 |
| 1876 | 99 | 58 | 41 |
| 1877 | 15 | 1 | 14 |
| TOTAL | 170 | 75 | 95 |

From T. A. O'Connor, Esq., District Superintendent of Police, Montgomery, to the Deputy Inspector-General of Police, Lahore Circle,—No. 154, dated 15th April 1878.

In reply to your confidential memorandum No. 25, dated 12th March 1878, forwarding Inspector-General's printed and confidential letter No. 18 of the 4th idem, I have the honour to report as follows.

2. During the years 1875, 1876, and 1877, 538 persons were prosecuted in this district for bad livelihood, and 415 of these were ordered to furnish security.

3. Of the 415 persons ordered to give security, 127 furnished it at once, and were consequently not subjected to any detention in custody; 240 were imprisoned for three months; 26 for six months; 20 for a year; and only 2 for three years.

4. Of the 48 persons (*i. e.*, 26 + 20 + 2) imprisoned from six months to three years, 1 had five previous convictions for theft and burglary, 9 four previous convictions, 24 three previous convictions, and 14 two previous convictions. And when we consider that all these persons are not only supposed to be, but are in reality, thieves and burglars, about whose pervious history there is no manner of doubt, and that several of them are men of desperate character, quite incapable of being reformed, it will, I think, be admitted that, so far as they are concerned, no oppression whatever has been exercised against them in shutting them up in jail.

5. I would further state regarding these that in nearly every case the Magistrates have taken up the charge of bad livelihood against them of their own action, without any request having been made by the Police Department.

6. And regarding the 102 persons with one previous conviction, and 62 with two previous convictions, I have to state that during the years I have been here, *viz.*, 1875, 1876, and 1877, the procedure adopted has been for the police to prepare lists of these persons and submit them for the orders of the Magistrate of the District, and then the Magistrate of the District has ordered such Subordinate Magistrate as may be going on tour in the district to personally take up these cases, and after due enquiry to pass such orders regarding the taking of security as to him may seem proper. Enquiry has therefore been made in nearly every case close to the accused's village, and from his village neighbours and lambardars, as well as from the lambardars of villages in close proximity to his own.

7. The large number of persons, *viz.*, 123, discharged by the Magistrate during 1875, 1876, and 1877, after a preliminary enquiry, also shows, I beg to submit, that the Magistrates are by no means inclined to favour the police by punishing everybody reported as a bad character.

8. I pass on now to the 203 persons punished for bad livelihood against whom there were no previous convictions. I have gone carefully into all their cases, and I find that nearly nine-tenths of them are persons without *any means whatever* of livelihood; and that most of them have been suspected more than once of theft. Moreover, each case has been tried on its merits by Magistrates while on tour in the district.

9. If we say that the police may probably have manipulated these cases in such a way as to mislead the Magistrate and ensure conviction of the parties brought up for bad livelihood, we deliberately charge the Magistrates with accepting police testimony without taking the trouble of making personal enquiries for themselves.

10. Furthermore, if we compare the number of persons convicted during any year of bad livelihood with the population of the district, we find that the percentage is so small that it is idle to say that such prosecutions tend to harass the people, or that the sections of the Criminal Procedure Code relating to bad livelihood are a terrible engine of oppression.

11. And there is yet another way of looking at the matter. Let us compare the number of persons prosecuted and convicted for bad livelihood during the years 1867 to 1877 with the number of cases reported to the police under Sections 379 to 382, 392 to 402, 411 to 414, and 447 to 462 of the Indian Penal Code, and also with the numbers of persons convicted for these offences.

12. I have drawn up a statement which I have marked No. III, which will give you all this information, and I beg to append it to this report. I also submit the Statements I and II called for by Inspector-General.

13. Regarding the effect on crime generally, of orders requiring persons to furnish security for future good conduct, I beg to invite your attention to Statement III before noticed. You will observe that from 1867 to 1872 crime steadily increased in this district till in the last-mentioned year the number of cases of theft, robbery, and burglary were more than double the number reported in 1867. During 1869, 1870, and 1871 the prices of food grains had risen very considerably, but in 1872 there was a slight improvement.

14. It is quite true that when comparing the state of crime between certain years the state of the harvest and the prospects of employment as field labourers being obtainable should also be taken into account; but a reference to Statement III will show that, although during the years 1873 and 1874 the average selling price of wheat was the same, yet during the latter year the number of offences against property was 207 less than during the former one. We cannot therefore ascribe this result solely to the harvest, but must look for some other causes of it.

15. His Honor the Lieutenant-Governor of the Punjab in his Review of the Police Report for 1872, in noticing the great increase of crime shown in that year's statistics, has assigned the following four great causes of it:—

*1st,*—"The absence of restraint over criminal tribes;"

*2nd,*—"The inadequate enforcement of the law against bad characters;"

*3rd,*—"The failure of the Track Laws;" and

*4th,*—"The light sentences passed on habitual offenders."

And he enjoins on district officers "the imperative necessity of enforcing the penalties of the Criminal Procedure Code against all bad characters."

16. This injunction will account for the number of prosecutions for bad livelihood instituted during 1873 and subsequent years, and in a

great measure also for the steady decrease of crime during these years. And it also quite annihilates the arguments in the printed correspondence forwarded with the Inspector-General's letter under reply, *viz.*, that "the sections of the Criminal Procedure Code relating to bad characters are a terrible engine of oppression in the hands of the police; are used by them to save themselves the trouble of detecting crime; and that, although numerous persons are yearly harassed by being sent up as bad characters and locked up in jail, crime, particularly serious crime, has not decreased."

17. In conclusion, I do not think it is out of place to mention what the people themselves think of the prosecution of persons of bad character for bad livelihood. The general opinion is that, of all the sections of the Criminal Procedure Code, those against bad livelihood are of the most practical use and benefit; that in no other way, considering the intricacies of English law, could persons of bad character be kept under proper control; and that the restriction of appeal has not only greatly strengthened the hands of the administrative staff of the district, but has also enabled it to cope successfully with crime. Many are of opinion, and I confess I agree with them, that in order to render the operation of the Act most perfect, the power to punish bad characters should be delegated to police officers, who, as they move more amongst the people than do the civil officers, naturally know more about them and have many more chances of finding out a man's real character than the generality of civil officers. I do not, however, suppose that our legislation is so far advanced as to accept the theory and apply it in practice.

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From L. N. Broome, Esq., Officiating District Superintendent of Police, Muzaffargarh to the Deputy Inspector-General of Police, Lahore Circle,—No. 1-1878, dated 15th April 1878.

In compliance with his confidential No. 27-1878, dated 12th March 1878, has the honour to submit the returns called for, and states that the law in force regarding the placing of bad characters on security has had, since its promulgation, a very beneficial effect on crime generally.

Crime has decreased, especially in those subdivisions in which the greatest number of bad characters were convicted, thereby showing that the law in this respect has had a deterrent effect on crime.

The reason of this satisfactory decrease may be put down to the fact that the Deputy Commissioner during the marching season of 1875 proceeded to those parts of the district where the greatest number of criminals and bad characters were supposed to reside, on account of the frequency with which crime was reported, and the leading bad characters were placed on security, or in default sent to jail.

During these three years there were 251 bad characters sent up for trial, of whom 196 were punished, and of these only 52 remained in jail in default of furnishing sureties.

There are no criminal tribes in this district, and therefore the law was enforced against persons known as bad characters only.

The harvests during these three years were good; on an average 21 seers of grain were sold for the rupee.

Memorandum or an Abstract of Replies received from the District Superintendents of Police, with reference to Inspector-General's Confidential No. 18, of the 4th March, 1878, regarding prosecutions for bad livelihood.

RAWALPINDI.

*(A).—The effect of order requiring persons to furnish security for good behaviour on crime generally.*

Has certainly had a very deterrent effect on crime generally, as for instance :—

1875.—There were 1,808 cognizable cases.
1876.— Ditto 1,642 ditto or a decrease of 166 cases.
1877.— Ditto 1,378 ditto ditto 264 „
Or a total decrease in 1877 as compared with 1875, of 430 „

GUJRAT.

The following statement shows briefly the effect of these prosecutions in diminishing crime and the classes of offences mostly affected by them :—

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| OFFENCES. | 1875. | 1876. | 1877. |
| Burglaries | 250 | 190 | 300 |
| Cattle thefts | 101 | 60 | 53 |
| Ordinary thefts | 272 | 228 | 200 |

GUJRANWALA.

The effect of these orders may be deduced from a review of the state of crime during the years 1875 to 1877, as follows :—

| YEARS. | Numbers of cases reported to have been committed—Classes I to V. |
|---|---|
| 1875 | 1,077 |
| 1876 | 853 |
| 1877 | 843 |

Considering the high prices of food during the year 1878, the effect of taking security from the *boná fide* bad characters of the district have had a deterrent effect upon crime.

SIALKOT.

Considers the effect of orders requiring persons to furnish security for good behaviour on crime generally as most satisfactory, particularly during the years 1875, 1876, and the latter part of 1877. The great increase in crime is entirely due to the almost famine rates of grain. Numbers, it is believed, have simply committed thefts to be sent to jail.

SHAHPUR.

The effect has been a decrease in crime, as will be seen by the statistics of crime for the past four years :—

| | | | |
|---|---|---|---|
| In 1875, the number of cases admitted was | | | 682 |
| " 1876, | ditto | ditto | 616 |
| " 1877, | ditto | ditto | 585 |

Or a decrease of 97 cases in 1877 to that of 1875.

JHELUM.

There is no questioning the fact that demanding security for good behaviour has, in the great majority of cases, a most salutary influence in restraining individuals from the perpetration of crime, in some instances of permanently reclaiming the men, and invariably of checking crime (at least for a time) locally; or in other words, within the radius of the country subject to the influence of the person from whom security is demanded. At the same time experience shows that the law, as it ordinarily is worked, does not influence crime generally. On two occasions (Lahore and Hoshiarpur) when the law was systematically and generally applied, its effects were likewise general. But those instances were the exception.

(*B*).—*Number of persons who were committed to prison in default of furnishing security, and whether they remained in jail the whole or only a part of the time during which the Magistrate proposed to bind them.*

RAWALPINDI.

It is impossible to say for what periods each individual person remained in jail till his security was tendered and received by Magistrate, as the security had to be verified before being accepted, and the accused had to wait in jail some four days, some for three and so on. These have been shown in column 4 of Statement No. I (Enclosure A) as persons imprisoned in default for three months and under.

GUJRAT.

Offers no remarks, but merely furnishes information in figures,—*vide* Statements Nos. I and II, Enclosure A.

GUJRANWALA.

The percentage of persons imprisoned in default to persons ordered to find security was, in 1875, 7; in 1876, 12; and in 1877, 8.

The percentage in 1877 contrasts favourably, considering the number of persons prosecuted. The bulk of persons imprisoned during the above years were for varions periods, averaging from three months and under, until security was furnished. The bad characters in the district are carefully selected by the police, and when the marching season comes round in the winter, these men are sent up for trial *upon the spot*, and the Magistrates satisfy themselves from local enquiry before security is demanded. The security is invariably light, and rarely any difficulty is

experienced in furnishing it unless the man happens to be a notorious bad character and the people will not therefore run the risk of standing security for him and having it forfeited shortly after for misconduct.

### SIALKOT.

Considers that in 1877 the number of persons (106 out of 110) who were imprisoned for various periods in default of finding security shows that the police did not abuse the law in these districts.

### SHAHPUR.

During the three years 1875, 1876, and 1877, 401 persons were ordered to furnish security by the Magistrate; out of these 133 were committed to prison in default of furnishing security; of these 105 remained in prison for three months, 10 persons for six months, 16 persons for one year, and one person for three years.

### JHELUM.

Columns 4 to 8 of Return No. I gives correctly the number of persons who were obliged to go to jail in default of finding security, and their classification in the several columns represents the actual periods passed by the persons so defaulting. Column of remarks of the same return shows the number of persons who were released simultaneously with delivery of sentence owing to their furnishing the security demanded.

## (C).—*Number of persons ordered to furnish security who had previous convictions.*

### RAWALPINDI.

The statement attached supplies all the information required under this clause: thus, in 1875, out of 139 persons ordered to find security 76 had no previous convictions, but 63 had been before convicted; also in 1876, out of 118 persons ordered to find security 56 had no previous convictions, but 62 had been before convicted; and in 1877, out of 109 persons 53 had no previous convictions, but 62 had been before convicted.

### JHELUM.

Return No. II gives in sufficient detail the characters of persons who were called upon to furnish security. The entries in column 4 of Return No. I, and those in column 3 of Return No. II, very nearly refer to the same persons who were, as a rule, houseless, homeless vagabonds taken up under section 504 of the Criminal Procedure Code. The persons entered in columns 4 to 8 of Return No. II were, with few exceptions, local men—men of the districts who were known to the law as criminal characters, and who, persisting in their evil ways, were prosecuted. A comparative study of the figures in columns 4 to 8 of Return No. II shows a uniform tendency, most strikingly progressive each year, to prose-

cutions being directed against persons who are habitual offenders, as distinguished from habitual criminals simply by repute. The present provision of the law requiring that *approved* security be tendered is an immense acquisition, but its utility is evidently not understood, or, if understood, not acted upon in this district. Several instances have come under the District Superintendent's notice in which persons have been prosecuted and subsequently released on security, but the police of the station have been utterly ignorant of the sureties, their character and status. Know of no instance in which the law has been abused; its judicious application is most beneficial and is approved and fully appreciated by the better class of village headmen.

GUJRAT<br>SIALKOT<br>GUJRANWALA<br>SHAHPUR } The information is furnished by District Superintendents in figures—*vide* Statement No. II.

*Paragraph 2 of Inspector-General's Confidential Circular No. 18, dated 4th March 1878,* i. e., *special features of the years in regard to harvests, prices, &c.*

[See Enclosure B.]

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From LIEUTENANT-COLONEL W. W. BODDAM, Deputy Inspector-General of Police, Rawalpindi Circle, to the Inspector-General of Police, Punjab,—dated Rawalpindi 25th May 1878.

IN forwarding extracts from replies received from District Superintendents in this circle to Inspector-General's confidential No. 18, dated 4th March, Colonel Boddam would mark that the system of taking security from bad characters has been worked most satisfactorily in the Gujranwala District, with the best results.

2. It will be seen that in the Jhelum Statement No. I certain entries have been noted in column of remarks. These are cases in which the persons ordered to find security did so at once, and therefore never entered the jail. It is believed that all such cases in other districts have been entered in column 4.

3. In some respects the replies received from District Superintendents are so meagre as to be perfectly useless, but it was considered unadvisable to lose more time in seeking for more explicit answers, the deficiencies having been as far as possible rectified by undersigned by reference to the Annual Reports, &c.

4. The fact of the Jhelum report having been received yesterday must account for the delay in submitting the information called for.

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## ENCLOSURE B.

### RAWALPINDI.

The harvest of 1875 was far better than that of the previous year, a greater area coming under cultivation, and the price of atta remained

steadily at 28 or 29 seers for the rupee throughout the year. This plentiful harvest had undoubtedly a favourable effect on crime, for there was a diminution in nearly every class, and especially in the more serious ones against person and property.

The harvest for 1876 was more plentiful than that of 1875. There was a great decrease of crime in all heavier offences. The average rate of grain for the whole year was 32 seers 11 chittacks for the rupee.

The harvest during the year 1877 was a failure. Owing to the scarcity stricter supervision was maintained over all criminal tribes and bad characters, which had the effect of lessening crime in all the stations in this district with the exception of Rawalpindi, Hassan Abdal, Sang Jani, and the city Rawalpindi. These stations show an increase, but this is owing to the fact of these jurisdictions being for the last six months of the year filled with hill tribes from Murree and Hazara, who were compelled to come down to the plains owing to the scarcity in the hills.

The average rate of grain for 1877 was 29 seers and 14 chittacks for the rupee.

## GUJRAT.

*1875.*—The harvest was excellent during the year, and had a favourable effect on petty crime.

*1876.*—There was an excellent harvest during the year, and the favourable decrease in crime goes far towards proving its effect.

*1877.*—The kharif crops almost entirely failed this year, and during the 3rd quarter considerable distress was experienced amongst the lower classes. There was also an increase in crime during this quarter, principally in petty burglaries.

*Price of wheat for 1875, 1876, and 1877.*

| MONTHS. | 1875. | | 1876. | | 1877. | |
|---|---|---|---|---|---|---|
| | Seers. | Chs. | Seers. | Chs. | Seers. | Chs. |
| January | 26 | 8 | 23 | 0 | 32 | 4 |
| February | 23 | 0 | 23 | 0 | 32 | 4 |
| March | 25 | 0 | 23 | 0 | 32 | 0 |
| April | 25 | 12 | 23 | 8 | 33 | 12 |
| May | 24 | 8 | 26 | 8 | 26 | 12 |
| June | 24 | 8 | 26 | 8 | 29 | 0 |
| July | 25 | 4 | 29 | 8 | 27 | 0 |
| August | 25 | 8 | 28 | 8 | 20 | 4 |
| September | 24 | 8 | 30 | 8 | 15 | 0 |
| October | 23 | 10 | 29 | 8 | 14 | 0 |
| November | 23 | 0 | 31 | 8 | 15 | 0 |
| December | 23 | 0 | 31 | 8 | 15 | 0 |
| Average for the year | 24 | 7 | 27 | 3⅓ | 24 | 6⅓ |

It will be noticed from this that the price of grain was lower during the month of April 1877 than it was in any other month during the three years.

There was a considerable rise in May, and continued rising till the end of the year. Crime increased during the months of September, October, and November, when the prices were highest.

### Gujranwala.

*1875.*—The harvest during the year was good, and better by 1½ seers than last year, the average market price of wheat being 23 seers per rupee; and that in 1874, 21 seers and 8 chittacks.

*1876.*—The harvest was much better during the year, and food has been a little cheaper, but the difference was not so great as to have had any perceptible effect on crime.

*1877.*—The harvest during the year was very bad, the average market price of wheat being 15 seers and 6 chittacks during the months of August, September, October, November and December 1877. During the same months of the preceding year it was 25 seers and 14 chittacks.

### Sialkot.

In 1875 the harvest was fair, but not so good as in the previous year.

In 1876 the harvest was good.

For the first 6 months in 1877 the harvest was average. Owing to the failure of rain no kharif harvest, or very little was sown. The rabi crop was not sown till the middle of November, and the unusually heavy rain together with the overflow of the large nallahs in this district destroyed a large portion of that.

*Price of wheat for 1875, 1876, and 1877.*

The average price of wheat was as follows:—

| | Seers. | ch. | |
|---|---|---|---|
| 1875 . | . 22 | 11 | per rupee. |
| 1876 . | . 23 | 15 | do. |
| 1877 . | . 21 | 9 | do. |

During the last quarter of the year 1877, wheat was selling for 12 seers only for the rupee.

### Shahpur.

*1875.*—The rabi crops were not good, kharif very bad. The average price of wheat was 27 seers 8 chittacks for the rupee.

*1876.*—Both harvests exceptionally good. The average price of wheat was 29 seers 9 chittacks.

*1877.*—The rabi was good, kharif bad. The average price of wheat was 28 seers 14 chittacks.

### Jhelum.

*1875.*—The harvest was good. The average price of wheat during the year was 28 seers 11 chittacks per rupee.

*1876.*—The harvest was above the average; wheat sold for 29 seers 13 chittacks per rupee.

*1877.*—There was a total failure of the gram crops. The rabi was much under the average; wheat sold for 26 seers 10 chittacks.

In August prices began to rise, and in September wheat was sold for 11 seers for the rupee.

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From Colonel A. A. Munro, Commissioner and Superintendent, Derajat Division, to the Inspector-General of Police, Punjab,—No. 333, dated Dera Ismail Khan, 8th May 1878.

In compliance with the requirements of your circular (confidential) letter No. 18 of the 4th March last and its annexures, I have the honour to submit figured statements for this division, distinguishing the number of persons required to furnish security for good behaviour.

2. Copies of the reports on the subject furnished by Deputy Commissioners are also enclosed.

3. It will be observed that District Officers are apparently in favour of maintaining the law on the subject as it at present stands, the effect of the measures taken under it since the passing of Act X of 1872 having been undoubtedly beneficial.

4. I fully concur in the remarks contained in paragraph 2 of the Dera Gházi Khan Deputy Commissioner's report, in which he refers to "organised raids made on bad characters by an Assistant Commissioner assisted by a police officer to hunt up such," as calculated to prejudice and oppress many innocent individuals who may have become obnoxious (from causes other than criminal) to village headmen, or to the neighbouring subordinate police officers. Although the District Police Superintendents consider it to be an important part of their duty, during inspection tours, to search out bad characters, especially in localities where crime is rife and the means of detection not so successful as might be desired, I am not aware that any systematic or summary hauling up of so-called bad characters at the behest merely of local faction leaders has ever been permitted in this division.

5. The virulence of faction, amongst Pathans especially, is indeed a safeguard against oppression in this respect. An individual of one faction unjustly required to furnish security for good behaviour at the instigation of members of the opposing party will almost invariably have the real state of his case brought to the notice of the district authorities by the watchful members of his own party, and the risk of indiscriminating oppression is thus partly obviated.

6. Careful consideration by a European Magistrate of the defence of a man called upon to furnish security for good behaviour before putting the law in force against him is, however, as Mr. Fryer observes, the surest safeguard; and with a full exercise of this discriminating check there can be no question that the operation of the Security Law is generally beneficial to communities, whilst its action is attended with the least possible risk of injustice or oppression to individuals.

7. The population of the Lower Derajat is less naturally disposed to serious crime than that of the Upper and Pathan Districts. Hence it will be seen that Bannu, which somewhat assimilates to Peshávar in the matter of crime, exhibits the largest number of cases under the Security Law, which is reported to operate there most favourably in the repression of offences.

From MAJOR C. E. MACAULAY, Deputy Commissioner, Dera Ismail Khan, to the Commissioner and Superintendent, Derajat Division,—No. 252, dated 29th April, 1878.

HAS the honour to forward the returns called for regarding prosecution for bad livelihood.

2. The undersigned thinks that requiring persons who support themselves by preying on society to furnish security for their behaviour cannot fail to have a beneficial effect on crime, and he sees no reason to suppose that the law on the subject is worked in this district by the police so as to operate harshly or oppressively on any portion of the community. There were only 13 persons of this district at the end of the year in jail in default of furnishing security, the occasion being very exceptional when such heavy security is demanded that it cannot be furnished by the individual concerned, the main object in taking security from those of bad livelihood being to place them under the supervision of those who go security for them, and who are not unfrequently in this district the leading men in the village or neighbourhood to which they belong.

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From F. W. R. FRYER, Esq., Officiating Deputy Commissioner, Dera Ghazi Khan, to the Commissioner and Superintendent, Derajat Division,—No. 399, dated 3rd May 1878.

IN reply to your circular No. 46, dated 13th March last, enclosing for report copy of a confidential circular, No. 18, dated 4th March last, on the subject of prosecution for bad livelihood, I have the honour to state as follows.

2. The effect of orders requiring persons to furnish security for good behaviour on crime generally. The number of persons shown in the enclosed return who were committed to prison in default of furnishing security was—

| | | |
|---|---|---|
| In | 1875 . . . . . . . . . . . . | 120 |
| ,, | 1876 . . . . . . . . . . . . | 86 |
| ,, | 1877 . . . . . . . . . . . . | 82 |

The number who remained in prison the whole of the time for which it was proposed to bind them was—

| | | |
|---|---|---|
| In | 1875 . . . . . . . . . . . . | 36 |
| ,, | 1876 . . . . . . . . . . . . | 21 |
| ,, | 1877 . . . . . . . . . . . . | 19 |

The number of persons who remained in prison for only a part of the time for which it was proposed to bind them was—

| Year. | No. of persons. | Under three months. | Under six months. | Under one year. | Under three years. |
|---|---|---|---|---|---|
| 1875 | 84 | ... | 18 | 63 | 3 |
| 1876 | 65 | 1 | 17 | 45 | 2 |
| 1877 | 63 | ... | 17 | 39 | 7 |

The number of persons previously convicted was—

| | |
|---|---|
| In 1875 | 65 |
| „ 1876 | 39 |
| „ 1877 | 40 |

The number of previous convictions was—

| Year. | One previous conviction. | Two previous convictions | Three previous convictions. | Four previous convictions. | Five previous convictions. |
|---|---|---|---|---|---|
| 1875 | 51 | 8 | 2 | 2 | 2 |
| 1876 | 29 | 5 | 4 | 1 | ... |
| 1877 | 31 | 7 | 1 | ... | 1 |

There has never been a systematic hunting down of bad characters in this district. When a man's character has become notorious, or when he has been concerned in some case regarding which grave suspicion has been attached to him, he has been required to furnish security; but no organised raid has ever been made on bad characters. I consider that to do so, as is done in some districts, where an Assistant Commissioner is sent into camp with a police officer to hunt up bad characters, is to run a great risk of causing oppression; 30 or 40 men are brought up at a thana consisting of a few really bad characters and of everybody against whom the police or leading lambardars have a grudge. The evidence of two or three men is given in each case, and the Magistrate has no time to make a proper enquiry.

If the defence of a man called upon to furnish security is carefully considered, and no extraordinary measures are taken to put the law into force against persons whose criminality is not patent, I do not think it can be doubted that the law by which bad characters can be called upon to furnish security is deterrent to criminals, and absolutely necessary for the prevention of crime. Many men have been suspected, time after time, of criminal offence, and are of notoriously bad repute. If such men are called upon to furnish security, they generally abstain from further crime; and so much is this the case that, though 450 persons were called upon to furnish security in this district in three years, the surety bonds of only 12 persons were forfeited in that period. The effect of calling upon persons to furnish security would be better known in districts where abnormal activity has been shown in taking security in any particular year or years. In this district the law has been pretty evenly administered.

3. One hundred and fifty-six persons were required to furnish security in 1875, 126 in 1876, and 168 in 1877, so that the decrease or increase of crime in any of those years can hardly be ascribed to the greater or less number of persons called upon to furnish security.

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From R. Udny, Esq., Deputy Commissioner, Bannu, to the Commissioner and Superintendent, Derajat Division,—No. 281, dated 2nd May 1878.

In reply to his circular No. 46, dated 13th March, has the honour to forward copy of District Superintendent of Police's No. 113, dated 27th ultimo, with enclosures.

2. Undersigned considers that the Security Law has not been in any way overworked in this district, and that the effect of orders requiring security for good behaviour on crime generally is excellent, especially in a frontier district like this.

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From the District Superintendent of Police, Bannu, to the Deputy Commissioner, Bannu,—No. 113, dated 27th April 1878.

In compliance with his No. 191, dated 18th ultimo, enclosing printed copy of letter No. 18, dated 4th March, from the Inspector-General of Police, Punjab, and enclosures, has the honour to forward the return therein called for and to report as follows :—

(*a*) The price of grain has not, in undersigned's opinion, had as much effect on crime as punitive posts. In 1876, the price of wheat was only slightly cheaper than in 1875 (*i. e.*, only two chittacks), and yet crime decreased by 622 cases ; there were also fewer bad characters on security in 1876 than in 1875. In 1877, wheat was dearer by 5 seers 10 chittacks than in 1876 : more bad characters were put on security, and crime increased by 216 cases. Three punitive posts were also abolished during 1877. The great decrease in crime since the year 1875 shows that the orders requiring persons to furnish security for good behaviour have had a good effect in this district.

(*b*) Of the 142 persons imprisoned in default of security for three months and under, 112 were ordered to find security for one year, and in remaining 30 for six months. Of the 10 who were imprisoned for six months and under in default, 8 were ordered to find security for one year, and 2 for six months ; the 6 persons in column 6 could not furnish security and were imprisoned for the whole year. Also for the year 1876, of the 50 persons in column 4, Statement I, 35 were ordered to find security for one year and 15 for six months : they all gave security before three months had expired. In column 5, 4 were ordered to find security for twelve months ; they gave security before six months had expired ; the 5th could not find security and remained in jail the whole six months. In column 6 the two men could not find security. For the year 1877, column 4, same Statement, 8 were for six months and 95 for one year ; they all furnished security before three months had expired. In column 5, the 5 persons were sentenced to be imprisoned for one year in default, but gave security before six months had expired. In column 6, all 13 persons were imprisoned for 12 months, not being able to find security.

The printed letter and enclosures are herewith returned as requested.

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From Major P. L. N. Cavagnari, C.S.I., Deputy Commissioner, Pesháwar, to the Commissioner and Superintendent, Pesháwar Division,—No. 274, dated 7th May 1878.

With reference to your circular No. 10C., dated the 14th March last, I have the honour to submit copy of Captain Tucker, District Superintendent of Police's letter No. 532, dated 4th instant, together with the returns called for by the Secretary to the Government of the Punjab's No. 100S., dated the 22nd February 1878, to the Registrar, Chief Court, Punjab.

2. The procedure followed in this district is that laid down in chapter 38 of Act X of 1872, and evidence is taken regarding the character of the accused person. This evidence is generally that of the head-men of the village. Investigations are occasionally made by the Magistrates when on tour in the interior of the district, but the majority of cases are sent up by the police, and the charge of bad livelihood is investigated by the Magistrates in precisely the same manner as is the case with any other criminal charge. The person from whom security has been demanded has the right of appeal to the Magistrate of the District, and I may mention that such appeals are extremely rare.

3. In Pesháwar, as in other frontier districts, the law relating to the surveillance of bad characters is extensively put into force with the view to the prevention of violent crime likely to occur in the prosecution of private feuds or factional quarrels amongst the Pathan communities. Experience has shown that the timely taking of security from parties known to meditate revengeful designs has prevented, for the security has been in force, the commission of serious criminal offences; and on this account the Magistrates and the police are constantly instructed to take these preventive measures in all cases which come to their knowledge in which feuds or other powerful motives for committing crime are found to exist.

4. Excepting the trans-border cattle-lifters, it may be said that there are no professional criminals who prey upon society, and as far as my experience goes there is but little more scope in this part of the province for the police to use the law relating to bad characters as an engine of oppression than can be done with any other section of the Criminal Procedure Code in which they have power to act.

5. Corrupt and oppressive subordinate native officials can, of course, for their own purposes, sometimes institute false cases and fabricate evidence in support thereof, but it is doubtful whether an appeal to the Sessions Judge of the High Court would remedy the occasional injustice that may arise in such cases, and I consider that the supervision of the procedure of the Magistrates and the police may safely be left, as at present, in the hands of the Magistrate of the District.

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From Captain L. H. E. Tucker, District Superintendent of Police, Pesháwar, to the Deputy Commissioner, Pesháwar,—No. 532, dated 4th May, 1878.

I have the honour to return the papers received from you on the 18th March regarding prosecutions for bad livelihood, together with two returns called for by the Inspector-General of Police, and to offer the following remarks.

2. Before dealing with the effect of existing orders, it will be not out of place to trace their origin. In the infancy of the present police system, and in view to prevention of crime, Major Hutchinson instituted two Registers, Nos. 9 and 10, to be kept at all police stations throughout the Punjab. It is only necessary to allude to the former, because the two are often confounded, although the purposes of their creation were perfectly distinct. No. 9 is a Register of all persons who have been convicted of cognizable offences; No. 10 of all persons who are suspected

of carrying on illegal practices, whether they have been convicted *or not*. Both registers are arranged by localities, and in the first instance No. 10 formed the basis of No. 9, in so far that persons whose names were entered more than once in the former, or who had even one conviction under certain sections, were usually also to be found in Register No. 10. The primary object of No. 9 was to aid the police in prosecuting criminals by giving a history of previous convictions. The purpose of No. 10 was to prevent crime by enabling the police to exercise active supervision over all persons of doubtful character. For this purpose a system of patrolling was introduced. The Punjab was divided into beats, four or five policemen told off to each beat, and each policeman provided with a paper, which he was required to learn by heart, giving the names of the villages he had to visit, with their lambardars, chaukidars, and badmashes. The list of badmashes was taken from No. 10. This Register (No. 10) was attested by the District Superintendent of Police himself or by his Assistant, one of whom visited every village in the district for this purpose. It may therefore be presumed that where departmental orders were carefully carried out by officers who understood the spirit in which they were issued, there were few entries made in Book No. 10 which should have been omitted, or omitted which should have been made. The patrols with their extracts from this register visited the villages at night, and ascertained whether the "badmashes" were present; and if not, whither they had gone. Lambardars and chaukidars were held responsible for reporting the absence of badmashes; and the badmashes themselves, though not restrained from going wherever they liked, were always required to explain the cause of their absence if they were not present at the roll-calls which took place at uncertain periods in their villages. This constituted a fairly effective system of surveillance, but the Chief Court ruled in a case that came before it that it was defamation of character for a police officer to make known to any person whatever, out of the department, any part of the contents of the Badmash Register; that this book was only legal so long as it was kept for the information of policemen alone, and no action of any kind was taken on it against the class for whose supervision it had been compiled. From the date of promulgation of this order the surveillance of bad characters throughout the province ceased, and the Register No. 10, compiled with much labour, became a dead letter which could no longer be even attested in the true sense of the word without defamation. The Police Department, finding their system of surveillance quashed on the grounds of illegality, fell back on the law itself for a system to replace it. The only substitute—a very ineffective one—that offered was prosecution for bad livelihood.

3. The object of the Police Department in prosecuting for bad livelihood was certainly not in the first instance to get the defendants put into prison, or even to put them on security for the sake of the security, but merely to acquire the power of exercising supervision without the chance of prosecution for defamation. For if the Magistrate had in open Court declared a man to be a bad character who preyed upon society, it could not be defamation for a policeman to repeat that declaration in the convict's own village; but these prosecutions only attain very partially their object. Instead of having from, say, in the Peshâwar District, 2,000 or 3,000 men under an efficient surveillance, we have (taking last

year as a specimen) 280 convictions for bad livelihood, of which 25 per cent. furnish security at once, 50 per cent. more after spending some time in jail, and the remaining 25 per cent. undergo the whole term of imprisonment. Such a result cannot so materially affect crime as the more extended, but less oppressive, measure which the law has disallowed.

The provisions of the Criminal Tribes Act are quite inadequate to meet the requirements of the province, besides being hedged round with so many obstructions that they can but seldom be enforced.

4. In conclusion, I would remark that, though the majority of convictions against bad characters are against persons known only to the country-side as such, in contradistinction to criminals known to the law, the proportion of the latter is annually increasing.

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From Captain F. C. Plowden, Deputy Commissioner, Kohat, to the Commissioner and Superintendent, Pesháwar Division—No. 222, dated Kohat, 20th May 1878.

Introduction.

I have the honour, in reply to your No. 10C., dated 14th March 1878, and enclosure, to submit the returns therein called for. From them it will be apparent that of the 382 persons ordered to find security during the years 1875, 1876, and 1877, 39, or about 10 per cent., had been previously convicted of offences.

Comparison of crime and prosecutions for bad livlihood for the two triennial periods :—
1872-73-74, and 1875-76-77.

2. As regards the effect of bad livelihood prosecutions on crime generally, a reference to the district annual returns for the years 1872, 1873, and 1874 gives the following results :—

| Years. | Total number of persons ordered to find security. | Non-bailable offences committed. | Cognizable offences committed. | Average price of | | | Harvest. | General Remarks. |
|---|---|---|---|---|---|---|---|---|
| | | | | Wheat. | Indian corn. | Bajra. | | |
| | | | | M. S. C. | M. S. C. | M. S. C. | | |
| 1872-73-74 . | 435 | 2,801 | 3,453 | 0 17 5⅓ | 0 25 0 | 0 28⅓ 0 | Good. | Border quiet throughout. |
| 1875-76-77 . | 382 | 2,335 | 3,443 | 0 29 1⅓ | 0 373 0 | 0 42 0 | Good. | Border much disturbed in 1876 and 1877 by Pass and Jowaki blockade. |
| | 53 | 466 | 10 | | | | | |

The remarkably great fall in prices during the past three years is the result of particularly good harvests and of much reduced exportation of wheat to Karachi.

3. The above figures show that notwithstanding that more persons were prosecuted in the former triennial period, and that the border was perfectly quiet, there was more crime than in the latter triennial period.

The above statistics commented upon.

4. From this it might therefore be inferred that these prosecutions have had no effect for good, but this inference would not be altogether correct, for looking at the two years 1874 and 1875, in which the greatest number of persons were called upon for security, it would be found that in those two years crime was less (in 1874 considerably so) than in any one of the other four years. The reduction in crime in the latter triennial period is undoubtedly to some extent due to the greater cheapness of edible grains.

They do not necessarily establish that such prosecutions have no effect for good on crime.

5. My own opinion is that prosecutions for bad livelihood, although they do check crime generally, and, as a rule, tie the hands of the individuals bound down owing to a reluctance to endanger the security of the surety, still have little or no effect in diminishing the three prevailing crimes in this district, *viz.*, burglary, cattle-theft, and rick-burning.

They have an affect on crime generally, but not on the three prevailing ones in the Kohat District.

6. As regards burglary, all Afghans of the middle and lower orders are, I may say, born burglars, and the only measure that can effectually stop this description of crime must be the conviction and rigorous punishment of burglars. This is a result, however, which, I regret to say, is very seldom obtained in this or, as far as my experience goes, any frontier district. One of the reasons as regards Kohat is that for almost the whole of the length of its northern, and for the whole of the length of its western, frontiers, it is bounded by the hills of independent territory which rise up abruptly from the inhabited and cultivated plain at their base, and that the sending or carrying off, therefore, of stolen property beyond the border is very easily effected. Consequently it is not difficult to baffle the efforts of the police even when they work honestly. The sympathy or apathy of the community is another cause of the few convictions had, whilst the commission of these offences by trans-border burglars is a third.

Burglary.

Every effort, by fining village communities, placing strongly suspected persons before councils of elders, and severely punishing all cases in which judicial convictions are had, is being made to check this description of crime, but it must not be expected that good results will at once be apparent.

The Afghan is particularly tenacious, not only of his national customs, but even of his national crimes, and being endowed with more stubbornness of character than perhaps any other race in British India, the deterrent effects of judicial and police measures take some time to show themselves in frontier districts.

As regards cattle thefts, this is the prevailing offence in the Samalzai and Miranzai valleys. The reasons for its frequent commission are, *1stly*, the physical features of the country, which in the Samalzai and Lower Miranzai

Cattle thefts.

valleys consist of dense jungles: and in the Upper Miranzai valley (where the jungle is less thick) of large villages situated at the immediate base of the mountain range which divides British from independent territory. In all three valleys the village cattle graze on the slopes of the frontier hills, and are easily carried off by trans-border thieves or driven across the frontier line by their associates in British territory; *2ndly*, the fact that the offenders are, as a rule, members of independent tribes who are piloted to the scene of their offence (from motives of private revenge or of pure mischief on consideration of sharing the spoil) by traitors in British territory, or who act in connivance with the village shepherds; *3rdly*, the frequent omission of the village headmen to send out armed escorts with the cattle when at graze, and the carelessness of individuals who take their own flocks and herds to pasture lands in exposed places apart from those of the rest of the village; *4thly*, the sympathy or apathy of the community generally; *5thly*, the fact that the Khans of the district seldom work honestly with the authorities in attempting to trace and recover the cattle and punish the offenders.

Every effort is made in the Judicial Department to check this crime by long terms of imprisonment in case of conviction, reference to Council of Elders in strongly suspected cases; and in the Political Department, by fining the offending tribes or sections;—but no improvement can occur until the district authorities are honestly supported by the Khans. The passing of a Frontier Grazing Regulation for the Peshâwar Division is, I believe, contemplated, and when it is introduced it will act as an additional preventive and punitory measure. In a word, inasmuch as this description of crime is committed for the most part, if not entirely, by trans-border thieves, whom we can seldom touch, although the offences are shown in our criminal returns, it is clear that prosecutions for bad livelihood can have but little effect on it, although I have lately commenced, in every case in which a trans-border offender is captured in British territory and convicted, to demand from him security for his future good behaviour. Cattle-lifting, I may here remark, is as national a trait of the Afghan mountain tribes now as it was in former days in our own country of the Scotch and English Border clans.

Rick-burning.

8. As regards rick-burning, it is obviously a class of offence in which it is most difficult to discover and punish the offenders. Not unfrequently the persons who suffer have brought the loss, so to say, on themselves. It is a somewhat favourite mode of taking revenge, because less likely than many others to be detected. It is more usually resorted to in this district in cases where the owner of the rick has an intrigue with a female relative of the offender, or some other woman-feud with him, these being species of wrong of which Afghans will seldom make open complaint. The burning of a rick is therefore often meant as a secret hint from the incendiary to the owner that his intrigue is known, and that he should beware. As the offence is difficult of detection, individual offenders are seldom punished, whilst village communities are, for obvious reasons, only recommended for fine in most glaring cases of collusion. Where persons are specially accused, the case is disposed of by Afghan custom, and where a feud is disclosed the preventive measure usually

resorted to is not the taking of security for good behaviour, but of security to keep the peace.

9. In conclusion, I would sum up my opinion by saying that the demanding of security for good behaviour freely, but not indiscriminately, is a wise measure in a frontier district like Kohat, and that its effect must not be judged of solely by reference to statistics, for there are certain classes of offences in Afghan communities committed either from motives of personal revenge or long-continued habit, which cannot at once be perceptibly affected by preventive or even punitory measures against individuals; although there is no doubt but that such measures have some effect on crime generally, and with but rare exceptions restrain the individual bound down for at least the period for which security has been filed. The few instances in which such securities are forfeited establish this. The Afghan race, it must be further remembered, is hard and stubborn. Strong and steadily-pursued preventive as well as punitory measures are therefore necessary to restrain it from crime, whilst it cannot be expected that the effects of such measures will at once or speedily be markedly apparent. What is really required is more systematic demanding of security of this nature from well-known bad characters and released convicts, and this I shall endeavour to effect now that a District Superintendent of Police has been appointed to this district. The working of this measure in connection with more regular police surveillance of all individuals of bad repute will, in time, I have no doubt, make some perceptible difference in the criminal statistics of the district.

Conclusion and summing up of the opinions held by the writer of this report.

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From LIEUTENANT-COLONEL M. MILLETT, District Superintendent of Police, Hazára, to the Deputy Commissioner, Hazára,—No. 353, dated 3rd June 1878.

IN reply to his memorandum dated 20th ultimo, forwarding Inspector-General of Police, Punjab's confidential letter No. 18, dated 4th March 1878, has the honour to forward Returns Nos. I and II of bad livelihood cases for three last years as requested.

The enclosure is returned herewith.

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From MAJOR W. G. WATERFIELD, Commissioner and Superintendent, Peshâwar Division, to the Inspector-General of Police, Punjab,—dated Peshâwar, 2nd July, 1878.

IN forwarding the reports of the three Deputy Inspector-Generals and Deputy Commissioners in the Peshâwar Division, called for by your confidential No. 18 of the 4th March 1878, I add a few remarks.

2. I do not think that the requiring persons to furnish security for good behaviour has had any appreciable effect upon the amount of crime. I think it ought to have done so if the matter had received more careful attention. The conditions of these Districts are, however, not such as would render them easily affected by any such measure unless undertaken more systematically than at present.

3. The only professional crimes in the three districts are, perhaps, house-breaking and cattle theft. In the former case a great deal of the property crosses the border, even if the offence is not actually committed by men from independent territory; and in the case of cattle theft, men from independent territory are almost always offenders; our own subjects act as spies and assistants and share the spoil. Convictions are seldom arrived at, and the taking of security for good behaviour cannot be brought to bear with any noticeable effect upon these crimes. In dacoities and robberies, also, men from independent territory are generally concerned, and the perpetrators are either not known, or if known, live over the border and beyond the reach of the law.

There is the strongest objection on the part of the people to give evidence of bad livelihood. This evidence amounts, as a rule, to little more than an opinion, and revenge is certain to follow the release from jail on the lapse of the term of security. This deters both the police and the courts from unnecessary prosecutions.

4. Out of 1,561 persons prosecuted, 1,215 were called upon to give security; of these 936 had *not* been previously convicted, and 389 *had* been previously convicted.

The persons convicted for

| I. | II. | III. | IV. | V. | Offences. |
|---|---|---|---|---|---|
| 239 | 24 | 24 | 1 | 1 = | 289 |

933 were sentenced to imprisonment in default of security, but of these only 569 were imprisoned, out of whom only 173 were detained for more than a month, showing that the security is, as a rule, moderate, and found without difficulty, and that the jails seldom receive these criminals.

5. Roughly speaking, only rather more than one-fourth of those called upon to give security had been previously convicted, and only 50 of the whole number had been convicted more than once.

Those known to the law as criminals are not often dealt with under the sections of the Criminal Procedure Code. The courts when convicting seldom suggest that security should be demanded on release, as it is supposed that the sentence itself will have the necessary deterrent effect; and no doubt those released are not brought under the surveillance of the police.

The District Superintendent of Police, Peshwár, has made some remarks regarding the former surveillance by the police, now superseded inefficiently by the Criminal Procedure Code. I do not agree with him, but draw attention to his letter enclosed.

ENCLOSURES.

| | | | | |
|---|---|---|---|---|
| Report from Deputy | Commissioner of | Peshâwar, | No. 274, | dated 7th May. |
| Ditto | Ditto | Kohat, | No. 222-1136, | dated 20th May. |
| Ditto. | Ditto | Hazara, | No. | dated 8th June. |

From LINDSAY NEILL, Esq., Officiating Secretary to the Chief Commissioner, Central Provinces, to the Secretary to the Government of India, Home Department, —No. D-42, dated 5th March, 1878.

I am directed to acknowledge your letter No. 3-223, dated 16th February last, requesting an early report on the working of the law regarding the taking of security for good behaviour. The report is called for because His Honour the Lieutenant-Governor of Bengal has censured both the magistracy and the police for the manner in which they have worked the provisions of the law, and because the statistics which His Honour has adduced tend, in the opinion of the Government of India, to show that, in the Lower Provinces at all events, the law has been very greatly abused.

2. The provisions of the law are as follow :—

Section 94 of the Code of Criminal Procedure (Act X of 1872) provides that "an officer in charge of a police station may without orders from a Magistrate and without a warrant arrest, or cause to be arrested, any person found lurking within the limits of such station who has no ostensible means of subsistence or who cannot give a satisfactory account of himself,"—

"or any person who is a reputed robber, house-breaker, thief, receiver of stolen property, knowing it to be stolen, or who is of notoriously bad livelihood."

Sections 504 and 505 *et seq.* provide that the Magistrate of the District, or a Magistrate of the 1st class, may require from persons whose condition and character are as above described security for good behaviour for certain terms, and may lock them up if security be not forthcoming.

By section 267 appeals in bad livelihood cases from orders of a Magistrate of the 1st class lie to the Magistrate of the District, but under clause (*d*) of section 286 there is no appeal against an order requiring a person to furnish security to be of good behaviour, when such order is passed by the Magistrate of the District.

3. The extent to which the provisions of the law have been worked in the Central Provinces may be gathered from the following figures: In 1873, 602 persons were prosecuted and the percentage convicted was 71 per cent. In 1874, the figures were respectively 818 and 72 per cent.; in 1875, 522 and 78 per cent.; and in 1876, 474 and 74 per cent. Statistics for the several districts for the years 1873 and 1874 are available and are annexed. It will be observed that the degree of activity in working these sections of the law varied greatly in different districts, but as, in 1875, the

Judicial Commissioner was able to report that prosecutions were pretty evenly distributed throughout districts, separate district statements in the annual Judicial (Criminal) report no longer seemed necessary. The matter of such prosecutions was in 1874 specially brought under the Chief Commissioner's consideration, as some cases of abuse of the law by a Magistrate of the 1st class were rectified and reported by the Magistrate of the District. The cases were simple: some wandering gangs of beggars were locked up because they could not give security, without any adequate enquiry and without any evidence that they fell within the provisions of the law.

4. After consultation with the Judicial Commissioner, circular instructions to the following effect were issued. Magistrates of Districts were ordered to direct officers in charge of police stations not to make arrests in future under section 94 of the Code of Criminal Procedure without the concurrence of the Magistrate of the District or of the Magistrate of the Division of the District in which the police station was situate unless *immediate* arrest was necessary for the ends of justice. It was explained that necessity for immediate arrest more often arose in the case of persons found "lurking" (without ostensible means of livelihood or unable to give a satisfactory account of themselves), but that in the case of reputed robbers, house-breakers, thieves, receivers of stolen property, and of persons of notoriously bad livelihood, *immediate* arrest was not generally necessary. For it was obvious that usually these persons were well-known permanent residents of places within the jurisdiction of the police station, whose arrest a few days' delay would not defeat, and in such cases officers in charge of police stations were directed to make a prior reference to the Magistrate of the District, or Division of a District, and not to make arrest without his concurrence. It was further remarked that these instructions were issued because experience had shown that officers in charge of police stations, when proceeding under section 94 of the Code of Criminal Procedure (on mere general character, repute, or appearances) needed special guidance, and as the necessity of arrests under section 94 depended upon exigencies connected with the general administration of criminal matters, the special guidance would most appropriately come from the Magistrate having chief executive charge. By the issue of the foregoing instructions Magistrates of Districts and Divisions of

Districts were made directly responsible for the prosecution of all vagrants and bad characters whom police officers did not find it necessary to arrest immediately without reference, and the Chief Commissioner can with some confidence assert that the issue of these instructions has been attended with beneficial results. Magistrates of Districts do not order the arrest of persons unless there is some *primâ facie* proof before them that such arrest is appropriate, and a form has been prescribed in which the officer in charge of a police station must set forth the grounds on which he considers that a person is one against whom proceedings under section 94 of the Criminal Procedure Code should be taken.

5. The Chief Commissioner's own views regarding the provisions of the law are contained in the following extract from his review of the Judicial Criminal Report for the year 1874:—

"In the Judicial as well as in the Police Report the prosecuting of vagrants and persons of bad habit and repute is referred to at considerable length. There seems to be a variety of opinion regarding the provisions of the law relating to this matter. Some officers look upon the power to arrest vagrants and persons of notoriously bad livelihood and obtain from them security for their good behaviour, or else make sure of them by locking them up, as the corner-stone of good police administration; others appear to have a morbid dread of this interference with the liberty of the subject, and to regard the exercise of these legal powers with fear and suspicion. Thus, while one Commissioner complains that 'the provisions of sections 504 and 505 of the Procedure Code have been little used,' another confesses that he has always a 'certain amount of misgiving' when he hears of particular activity having been shown in this matter. In this, as in so many cases, it is probable that *in medio tutissimus* will be found a true saying. The circular on the subject of such prosecutions, issued during the year . . . is sufficient to prevent any abuse of the law, and it is for Deputy Commissioners to determine to what extent they will use it. This weapon against evil-doers was not given them that it might rust, nor yet was it given them to be used against persons other than those clearly marked out. For his own part the Chief Commissioner has no fear that Deputy Commissioners will either outstep the law or allow it to become a dead letter. . . . There is nothing to prevent Deputy Commissioners and Assistant Commissioners in these Provinces from taking up these cases when on tour in the interior of their districts, and the Chief Commissioner would like to impress on all officers the great advantage of obtaining security from these bad characters to locking them up. Their great object should be to obtain security."

6. I am further to submit that at no time did the magistracy in these Provinces show itself facile in convicting persons brought up by the police for bad livelihood. In

nearly all police reports the Superintendents have lamented, not only that proof of bad livelihood was with difficulty forthcoming, owing to the reluctance, caused by the fear that they should become a mark for evil-doers whose term of security had expired, with which respectable men came forward to testify to bad repute, but further that Magistrates required as clear evidence in support of the offence of bad livelihood as in support of any specific breach of the Penal Code.

Such antagonism between the police and the magistracy seemed to the Chief Commissioner not unhealthy, and he thinks he can safely affirm that cases in which hardship and suffering have been caused to innocent persons have been few and far between, and that Magistrates of Districts have not only not unduly exercised the salutary powers conferred on them by the law, but have tempered the zeal of police officers who exhibited a tendency to make indiscreet arrests.

*Table showing prosecutions, with results, for Vagrancy and Bad Habit in the several Districts of the Central Provinces, for the years 1873 and 1874.*

| Districts. | Vagrancy. Number of persons brought up and percentage from whom security was required. | | | | Bad Habit. Number of persons brought up and percentage from whom security was taken. | | | |
|---|---|---|---|---|---|---|---|---|
| | 1873. | | 1874. | | 1873. | | 1874. | |
| | Persons. | Per cent. | Persons. | Per cent. | Persons. | Per cent. | Persons. | Per cent. |
| 1. Nagpur | 30 | 67· | 82 | 68· | 28 | 80· | 129 | 86· |
| 2. Chanda | 2 | 100· | 1 | ... | 7 | 29· | 4 | 75· |
| 3. Bhandara | 5 | 80· | 1 | ... | 10 | 70· | 6 | 50· |
| 4. Wardha | 14 | 21· | 17 | 41· | 4 | 100· | 28 | 75· |
| 5. Balaghat | ... | ... | ... | ... | 14 | 64· | 11 | 45· |
| 6. Jubbulpore | 14 | 64· | 24 | 75· | 57 | 67· | 57 | 68· |
| 7. Saugor | ... | ... | ... | ... | 26 | 58· | 24 | 62· |
| 8. Damoh | 9 | 22· | 2 | ... | 28 | 86· | 11 | 21· |
| 9. Seoni | 46 | 72· | 55 | 71· | 20 | 90· | 80 | 91· |
| 10. Mandla | 1 | ... | ... | ... | 8 | 75· | 20 | 65· |
| 11. Hoshangabad | 31 | 45· | 13 | 46· | 13 | 46· | 39 | 41· |
| 12. Betul | 15 | 67· | 37 | 92· | 10 | 50· | 8 | 100· |
| 13. Narsinghpur | 9 | 100· | 4 | 100· | 58 | 88· | 16 | 81· |
| 14. Nimar | 24 | 96· | 11 | 91· | 28 | 96· | 25 | 84· |
| 15. Chhindwara | 1 | 100· | 2 | ... | 14 | 86· | 5 | 80· |
| 16. Raipur | 47 | 68· | 61 | 67· | 20 | 65· | 23 | 61· |
| 17. Sambalpur | ... | ... | 2 | 100· | 5 | 60· | 9 | 77· |
| 18. Bilaspur | 4 | 25· | 5 | 80· | ... | ... | 2 | 50· |
| 19. Upper Godavari | ... | ... | ... | ... | ... | ... | 1 | 100· |
| Total | 252 | 65· | 317 | 71· | 350 | 75· | 501 | 74· |

From LINDSAY NEILL, Esq., Officiating Secretary to the Chief Commissioner, Central Provinces, to the Secretary to the Government of India, Home Department, —No. 44-G, dated Nagpur, 21st March 1878.

IN my letter No. D-42, dated 5th instant, the Chief Commissioner reported on the working of the law regarding the taking of security for good behaviour.

It now occurs to him that the Government of India may desire to know the views held by the Judicial Commissioner, and the following extracts from a letter received from him a few days ago are of interest. Regarding the effect of the circular instruction quoted in paragraph 4, he says:—

"The effect of the above circular has been to diminish considerably the number of prosecutions of persons of bad livelihood, but it has, of course, affected to a much less degree the prosecutions for vagrancy.

"The number of prosecutions for vagrancy may not be too few, but the prosecutions for bad livelihood are certainly not so numerous as they might be. It appears, then, that while there have been occasional irregularities, there has never been anything like a general abuse of power, and safeguards have been provided to prevent the recurrence of any irregularities which have been found to exist.

"It is further evident from the large proportion of discharges (from 2 to 3 out of every 7 prosecuted) that Magistrates are not, on the whole, unduly ready to demand security from the persons prosecuted by the police. On the whole, therefore, it would seem that the administration of the law in most districts is not at present marked by a dangerous degree of vigour. The Officiating Judicial Commissioner would be reluctant to let so valuable a provision fall into disuse from fear of its ill effects, and he thinks that with proper precautions it might be used without any fear of danger to the innocent. Ordinarily these prosecutions should not be entertained, except by a Magistrate on tour, who would make his own enquiries, so as to avoid all risk of being deceived by a got-up case. The evidence in such cases must be necessarily of a much more general character than that available against persons charged with definite offences. It is therefore all the more necessary that the character and motives of the witnesses should be above suspicion, and that the grounds of their belief should be recorded in such a manner as to bring them out with perfect clearness, as well to the Magistrates themselves as to others. If Magistrates will realise that they are dealing with a weapon dangerous and difficult to wield in proportion to its utility, and so will treat these cases as involving exceptional responsibility, there need be no fear of their being hastily or superficially tried. These remarks seem necessary because some Magistrates seem to think it safer not to meddle at all with powers so dangerous, and they should understand that the risk to be anticipated from them arises not from their use but from their abuse."

2. It is gratifying to the Chief Commissioner to see that his views and those of the Judicial Commissioner are in such harmony.

From Major C. W. STREET, M.S.C., Secretary to the Chief Commissioner, British Burma, to the Secretary to the Government of India, Home Department,—No. 1072-160, dated Rangoon 25th July, 1878.

I am directed to acknowledge the receipt of your (confidential) letter No. 3-224, dated the 16th February last, calling for a report on the working of the law in British Burma in cases in which persons are required to furnish security for good behaviour.

2. In reply, I am to submit for the information of the Government of India copies of the correspondence described in the margin, containing the opinions of the officers who have been consulted on the subject.

* No. 547-243, dated 22nd March 1878, from Commissioner, Tenasserim.
,, 113-33, ,, 9th April 1878, from Commissioner, Pegu.
,, 43-23, ,, 18th April 1878, from Recorder, Rangoon.
,, 742-243, ,, 22nd April 1878, from Commissioner, Tenasserim.
,, 133 ,, 29th April 1878, from Commissioner, Arakan.
,, 545-30, ,, 16th May 1878, from Judicial Commissioner, British Burma.

I am also to invite the attention of the Government of India to the following extracts from the Chief Commissioner's Resolutions on the Criminal Justice Administration Reports for 1874, 1875 and 1876, which contain Mr. Rivers Thompson's opinion on the operation of the Act.

*Extract from Resolution for 1874.*

* * * * * *

"The number of persons ordered to give security for good behaviour is still strangely excessive, and disproportioned to the number of convictions: though it has diminished from 1,492 in 1873 to 1,137 in 1874, even this result gives the province a very prominent position in contrast with other presidencies. It is possible that the measures adopted are considered necessary to ensure comparative immunity from crime, and this is the only justification of the procedure: still, there is the fear that the police have a tendency to utilise these clauses of the law to anticipate the more onerous and legitimate duty of investigation and detection after the commission of crime. Charges of this nature are easily preferred, and, with the assistance of the police, can be easily established for the purposes of conviction; while the presentation of sureties who will give security that will satisfy is not an easy matter to villagers placed in such a position, intimacy with whom would in all cases imply, from a police point of view, a disreputable connection against the sureties themselves. The practice under sections 504 and 505 of the Criminal Procedure Code seems so common in this province, and is often so lightly talked of, that the Chief Commissioner feels it his duty to warn all Deputy Commissioners, who, as Magistrates of Districts, are required directly to supervise

the action of the police of their districts, that in resorting to this summary procedure in the idea of suppressing crime, they may often give encouragement to grave injustice."

*    *    *    *    *    *

*Extract from Resolution for 1875.*

*    *    *    *    *    *

"The number of persons ordered to give security or recognizance has slightly fallen, *viz.*, from 1,270 to 1,118. On this practice, still strangely prevalent, the Chief Commissioner can only refer to his remarks of last year and add to them what Mr. Quinton points out, *viz.*, that the practice only results in the postponement of an evil day. It is possible that the power is judiciously exercised, and with the evidence to that effect before him, the Chief Commissioner is inclined to believe that it is. Village life in Burma has doubtless many different characteristics to village life in India; but even allowing for this, the class of men dealt with under these clauses is not peculiar to Burma, and it is notorious that the proportion of such cases here is very much in excess of that of most Indian provinces."

*    *    *    *    *    *

*Extract from Resolution for 1876.*

*    *    *    *    *    *

"The number of persons ordered to give security for good behaviour was 1,184, against 995 in 1875. The question is one to which attention has frequently been directed, and the Chief Commissioner regrets to find that the number of cases in which the so-called "preventive jurisdiction" of Magistrates has been exercised is on the increase: 757 persons were imprisoned in default, and it is extraordinary that every person called upon to furnish security in Kyouk-phyoo and Toungoo should have been so imprisoned."

*    *    *    *    *    *

3. The prevailing opinion in the province, however, is that the provisions of the Act have not been capriciously worked, and that the powers conferred on Magistrates have not been abused. The Chief Commissioner would especially ask the attention of the Government of India to the very thoughtful paper in which the Judicial Commissioner reviews the opinions of the Commissioners and District Officers. The Chief Commissioner agrees with Mr. Jardine in the opinion that the Magistrates in British Burma have, as a rule, exercised discretion in applying the sections of the Code, and also that the power of demanding security is a very necessary one to possess in this province. It may be true, as observed in the report of 1874, that this power is more frequently exercised in British Burma than in other provinces; but it must be remembered that in Burma the population is very much more criminal than elsewhere.

The percentages of convicts to populations in the several jails throughout India and British Burma in 1875, as shown in page 22, paragraph 5 of the Jail Conference Report, were as follows:—

| | |
|---|---|
| Burma | ·457 |
| Punjab | ·194 |
| North-Western Provinces | ·187 |
| Oudh | ·173 |
| Central Provinces | ·136 |
| Hyderabad Assigned Districts | ·119 |
| Bombay | ·112 |
| Mysore | ·098 |
| Bengal | ·089 |
| Madras | ·078 |

4. Until such time as a proper system of village police can be organised in British Burma, the Chief Commissioner would be sorry to see any material restriction placed on the power of the Magistrates to take security. At the same time, the Chief Commissioner agrees with those officers who would allow an appeal from the order of the Magistrate, and also with the Recorder of Rangoon in the suggestion made in paragraph 9 of his letter No. 43-23, dated the 18th April last. The Chief Commissioner also thinks it right to state that during his recent tour he found in a small district jail containing 54 prisoners no fewer than 17 confined under the Magistrates' orders in default of security. The Magistrates have been instructed to review the cases of all these men, and to exercise a liberal discretion in releasing such as may not prove to be men of positively bad livelihood.

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From the Commissioner of the Tenasserim Division, to the Secretary to the Chief Commissioner, British Burma,—No. 547-243, dated 22nd March 1878.

Your letter No. 278-160, dated the 28th February 1878, calling for an early report on the working of the law by which persons are required to provide security for good behaviour.

I have as yet obtained only one reply from the District Officers (Deputy Commissioner, Amherst). I send you that, and will report further when I get the rest in.

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From the Deputy Commissioner, Amherst, to the Commissioner of the Tenasserim Division,—No. 81-37, dated 21st March 1878.

In returning herewith the enclosures of your letter No. 415-243, Judicial (Miscellaneous), of 11th instant, I have the honour to report that

the number of persons sent up for trial on charge of bad livelihood in this district has very much decreased within the last five years. In 1873 there were 292 persons charged and 172 convicted; in 1877 there were 85 charges and 51 convictions. It is also to be remarked that in 1873 there were 18 dacoities, and in 1877 there were 5.

2. Although the connection between dacoities and convictions of this sort may be more or less of a hypothetical nature, there can be little doubt that it is when violent crimes are most rife that a District Magistrate finds it necessary to put in force the provisions of the law with respect to bad characters, and consequently, at a time when dacoities and robberies are frequent, there will be a greater number of persons sent up and convicted under the provisions of chapter 38 of the Criminal Procedure Code. That chapter gives the Magistrate of the District very extensive and exceptional powers in the matter; but it seems to have been overlooked that such powers extend not only to the demanding of surety, but to the release, without reference, of any one confined in default of furnishing surety, whether by the Magistrate himself, his predecessor, or any of his subordinates (*vide* section 511).

3. No doubt such powers are liable to abuse; but, so far as I am aware, they have seldom, if ever, been abused in this district, while they have at times been used with the most beneficial effect. And here I would venture to remark that, whatever may be the case in Bengal, the object sought in bringing these powers into play in this country is not the "locking up" of "suspects," and, as far as I am aware, only a very small proportion of those convicted are ever locked up for more than a few days,—if the object sought is not to put the person convicted into jail, but to put him under the surveillance of his friends or relations who become his sureties, and who, for their own sake, look after him and prevent his relapsing into crime. I have known instances where such relatives have brought back the person for whom they had stood surety; declared that, as he would not behave himself properly, they could no longer be his sureties, and requested that he may be committed to jail, and the bonds cancelled; and then after a time, on promise of better behaviour on the part of the peccant relative, again became his sureties and effected his release from confinement.

4. As regards the suggestion that the law should be amended, so that "in all cases in which persons are required to find surety for good behaviour, there should be an appeal to the Sessions Judge *and* the High Court," as in other criminal cases, apart from the fact that such double appeal does not exist in other criminal "cases," it seems to me that no such change is necessary here; the cases of the sort with which a District Magistrate deals himself are extremely few, and the orders of his subordinates in such matters are appealable to him. The giving power to appeal from the order of the District Magistrate would therefore be of little or no effect unless a new principle, *viz.*, that of double appeal be introduced; while if a District Magistrate be not competent to exercise the powers conferred by chapter 38 of the Criminal Procedure Code with ordinary discretion, he can hardly be fit for the exercise of many other powers with which he is entrusted by law.

From the Commissioner of the Pegu Division, to the Secretary to the Chief Commissioner, British Burma,—No. 113-33, dated 9th April, 1878.

In reply to your No. 277-160, dated the 28th February, I have the honour to state that I have seen no reason for believing that the provisions of the Criminal Procedure Code, with reference to the requirements of security for good behaviour, have been in any way abused by the Magistrates in this division. The police may sometimes err in sending up men for bad livelihood without sufficient evidence; but it may be affirmed with certainty that none of the Magistrates act upon the principle that "crime cannot be checked without locking up, precisely as if they were convicted criminals, all persons of whom it is thought or said by their enemies or neighbours that they are persons who may possibly at some future time or another commit an offence," which is said to be the case in Bengal.

2. The present law on the subject is much the same as it has been for many years, except in the matter of appeals,—the last Criminal Procedure Code having withdrawn the right which formerly existed, of appealing from the order of the Magistrate of the District, requiring security to be furnished. I do not see why this right should have been withdrawn. Magistrates are liable to err in bad livelihood cases just as much as in any other case; and it is difficult to see why a man who has been sentenced to a year's imprisonment for theft should have a right of appeal, whilst a man who has been condemned to practically the same punishment in a bad livelihood case should have no such right. I am of opinion that the whole right of appeal should be restored.

3. The number of convictions for bad livelihood in each district during the last two years, 1875 and 1876, were as follows:—

| | 1875. | 1876. |
|---|---|---|
| Rangoon | 139 | 139 |
| Thonkwa | 168 | 120 |
| Bassein | 113 | 110 |
| Henzada | 198 | 185 |
| Prome | 64 | 83 |
| Thayetmyo | 41 | 52 |
| Total | 723 | 689 |

The number in 1876, it will be seen, showed a decrease.

From the Recorder of Rangoon, to the Secretary to the Chief Commissioner, British Burma,—No. 43-23, dated 18th April 1878.

I have the honour to acknowledge the receipt of the Officiating Junior Secretary's letter, Judicial Department No. 275-160, dated the 28th February, with copy of letter from the Secretary to the Government of India in the Home Department, No. 3-224, of the 16th February, with enclosures, asking me for a report on the working of the law with respect to bad livelihood in the province.

2. This request, I presume, has been made to me by mistake, for I am unable to report on its working from any personal knowledge of the

subject, further than it has come under my notice within the limits of my own jurisdiction.

3. As far as my experience goes, I consider the law has been abused by a too frequent resort, on insufficient occasion, to the powers conferred on Magistrates under chapter 38 of the Code of Criminal Procedure, as well as by a disregard of the procedure therein laid down; and my information, on good authority, leads me to the conclusion that the law has not been worked outside Rangoon any better than it used to be done within the town. The Government Resolutions on the Administration of Criminal Justice of the last three years have only to be referred to, to support that opinion.

4. The mere fact that a stranger in the town, discovered, for instance, in the vicinity of the pagoda, who has not been at once able to give an account of himself to the police, or to show them what his means of living are, has been enough in numerous instances to incarcerate the individual, in default of his finding security for a heavy amount, on the ground of bad livelihood; and it has been put forward, as an excuse for committing such persons, that it was necessary as a precautionary measure against future crime; for if people from the surrounding districts who are without occupation were allowed to resort to the town, they would, either from inclination or force of circumstances, amalgamate with the criminal class, and thus increase crime.

5. I need hardly remark on what a powerful engine of oppression and extortion such a procedure places in the hands of a not over-scrupulous police; and how absolutely necessary it is, so that Magistrates should not become themselves the unconscious instruments of wrong, that they should use the greatest care in working their powers, and not be too readily led to act from the uncorroborated statements of the police, as I have found it to be the case.

6. In the anxiety to keep down crime, cases have come under my own notice, and have called for my censure, where the Magistrate, without taking evidence, as is required by section 515 of the Code, has ordered a person to give heavy security for his good behaviour or be imprisoned for six months in default, who has been at once sentenced to imprisonment because he could not forthwith produce the amount of security required, the person having been just tried before him for an offence, and acquitted.

7. Then, again, I had at one time frequently to call the Magistrates' attention to the necessity of their proceedings being the same as in summons cases, and not by summary procedure,—a procedure which, in my opinion, from the wide discretion the Code gives to try summarily certain classes of offences, is too readily made use of, without reference to the gravity of the particular offence being tried, or the punishment awarded; so that on appeal there is but the most meagre information supplied, to enable the court to say whether the accused has been properly convicted or not, and is a part of the Code that calls for some amendment.

8. I am glad to be able to say that a marked improvement has taken place in the administration of justice under this chapter, respecting bad livelihood in the Magistrates' courts in Rangoon—by greater care being taken in dealing with such cases, and from a correcter apprehension of the requirements of the law on the subject; but as regards the necessity for

a change in the procedure, I would most strongly recommend that, even if the alteration does not take a wider range, so as to guard as much as possible against the lawless action of the police, an appeal should lie direct from the Magistrate who committed the case to the court of the sessions; and also that there should be an appeal to the same court from the decision of the District Magistrate. There is really so little difference between the powers of a Magistrate of the first class and those of the Magistrate of the District, and besides, as these two classes of Magistrates would naturally be inclined to look at such cases from the same standpoint, the present system of appeal is only little more than nominal, that an appeal should not lie from the Magistrate of the first class to the Magistrate of the District; and I see no grounds whatever for making the decision of the latter final.

9. I would also recommend that, after the words in section 504 of the Code, "who cannot give a satisfactory account of himself," some such words as the following be added: "and whom the Magistrate has reason to believe to be a bad character," as some safeguard against magisterial caprice or police oppression. The Magistrate would then be bound to exercise a proper judicial discretion in such cases, which he does not do now, when he merely relies and acts on the bare statement, reflecting on the accused, of some ignorant, lazy, or corrupt constable.

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From the Commissioner of the Tenasserim Division, to the Secretary to the Chief Commissioner, British Burma,—No. 7422-243, dated 22nd April 1878.

Your letter No. 278-160, dated the 28th February 1878: *subject*—for report on the working of the law by which persons are required to provide security for good behaviour.

*Reply.*—I have the opinions of the following District Officers:—

| | |
|---|---|
| Lieut.-Colonel Duff | Amherst District. |
| Colonel Spilsbury | Tavoy „ |
| Colonel W. Munro | Mergui „ |
| Captain Forbes | Shwe-gyeen „ |
| Major Strover | Toungoo „ |

I beg to extract from them as below:—

*Amherst.*—"The number of persons sent up for trial on charge of bad livelihood in this district has very much decreased within the last five years. In 1873 there were 292 persons charged and 172 convicted; in 1877 there were 85 charges and 51 convictions. It is also to be remarked that in 1873 there were 18 dacoities, and in 1877 there were 5.

"Although the connection between dacoities and convictions of this sort may be more or less of a hypothetical nature, there can be little doubt that it is when violent crimes are most rife that a District Magistrate finds it necessary to put in force the provisions of the law with respect to bad characters; and consequently, at a time when dacoities and robberies are frequent, there will be a greater number of persons sent up and convicted under the provisions of chapter 38 of the Criminal Procedure Code. That chapter gives the Magistrate of the District very extensive and exceptional powers in the matter; but it seems to have been overlooked that such powers extend, not only to the demanding of

surety, but to the release, without reference, of any one confined on default of furnishing surety, whether by the Magistrate himself, his predecessor, or any of his subordinates (*vide* section 511).

"No doubt such powers are liable to abuse, but, so far as I am aware, they have seldom, if ever, been abused in this district, while they have at times been used with the most beneficial effect; and here I would venture to remark that, whatever may be the case in Bengal, the object sought in bringing these powers into play in this country is not the locking up of suspects, and, as far as I am aware, only a very small proportion of those convicted are ever locked up for more than a few days, if the object sought is not to put the person convicted into jail, but to put him under the surveillance of his friends or relatives who become his sureties, and who, for their own sake, look after him and prevent his relapsing into crime. I have known instances where such relatives have brought back the person for whom they had stood security, declare that, as he would not behave himself properly, they could no longer be his sureties, and requested that he may be committed to jail, and the bond cancelled; and then after a time, on promise of better behaviour on the part of the peccant relative, again became his sureties and effected his release from jail.

"As regards the suggestion that the law should be amended, so that, in all cases in which persons are required to find surety for good behaviour, there should be an appeal to the Sessions Judge *and* the High Court, as in other criminal cases, apart from the fact that such double appeal does not exist in other criminal cases, it seems to me that no such change is necessary here; the cases of the sort with which a District Magistrate deals himself are extremely few, and the orders of his subordinates in such matters are appealable to him. The giving power to appeal from the order of the District Magistrate would therefore be of little or no effect, unless a new principle, *viz.*, that of a double appeal, be introduced; while if a District Magistrate be not competent to exercise the powers conferred by chapter 38 of the Criminal Procedure Code with ordinary discretion, he can hardly be fit for the exercise of many other powers with which he is entrusted by law."

*Tavoy.*—The law in this district was seldom put into operation. Only five persons were sent up for bad livelihood in 1877, and, of these, three were convicted and sentenced to give security; in default, to undergo six months' rigorous imprisonment. In two cases security was given.

*Mergui.*—"The sections for bad livelihood have not been much required in this district, and have consequently not been much used. In 1875 there were three persons brought up for bad livelihood: they were convicted, but furnished the security required, and were not imprisoned. In 1876 no one was brought up. In 1877 one person only was brought up: he was convicted, and, failing to furnish the required security, was imprisoned. In the present year, 1878, no one has been brought up for bad livelihood.

"In my opinion, these sections, if worked with discretion, are exceedingly useful, but they are doubtless liable to abuse if their working is left to subordinate police officers; but if their working is carefully checked by the Superintendent of Police and the Magistrate of the District, I do not think any oppression is likely to arise in using them. In

this province, as far as my experience goes, it is not robbers and dacoits who are placed on security: they are brought to trial, and, if a conviction against them fails, although they are watched, they are not brought up under these sections, for generally men who are known to have been robbers or dacoits lead, apparently, outwardly quiet lives, and follow ostensibly occupations which give them fair means of subsistence. The persons who are generally brought up are idle vagabonds, who have no real and hardly any ostensible means of subsistence, known to be gamblers and opium-smokers, and who obtain the means to smoke and gamble from constant petty thieving, and who are a nuisance to their neighbours and all well-conducted people. It is very well to say, convict them of crime and then punish them; but it is this which it is so difficult to do: now and then they do get convicted for some petty theft, but the probabilities are that a vagabond of this description will commit 20 or 30 petty thefts before you convict him of one, for the police cannot be everywhere, and certainly do not and cannot ascertain the culprit in every case of petty crime reported. A glance at the returns of crime reported to that brought to trial shows that a very considerable proportion remains undetected. I therefore cannot see how these sections, if worked with discretion, can cause hardship, nor that there is any hardship in locking up a known vagabond and thief if he is unable to furnish a moderate sum as security for his good conduct. If a man is not irreclaimably bad, and the security asked for is, as it should be, moderate, they generally manage to obtain it; and in such cases the securities keep a close look-out on the person they have given security for, who generally remains fairly honest while under security. When the securities find there is reason to suppose the person is returning to bad habits, they will generally petition to be relieved of their security; it is only where a vagabond fails to give security he is locked up, and, if he chooses to insist on leading a dishonest life, I cannot see any hardship in keeping him in prison: the hardship seems to me to be that he should be let loose to plunder honest men.

"If it is thought desirable to revert to the old law of allowing an appeal in these cases from the District Magistrate's decision to the Sessions Judge, I see no reason for objecting to it, for, if a case is carefully enquired into, and the conviction is a just one, the probabilities are that it will be upheld in appeal: it will only throw a little more work on the Sessions Judge."

*Shwe-gyeen.*—"I have the honour to forward the following remarks, embodying my experience as Magistrate of this District, and also for three and a half years of one of the most unsettled parts of British Burma,—the Tharrawaddy District. In the first place, the state of things pointed out by the Lieutenant-Governor of Bengal does not exist in this province as far as I have seen. I do not believe that in any part of this province is the action of the police characterised by the systematic oppression and intimidation which seems to be the normal condition of the police working in Bengal. No doubt, occasionally the police, without sufficient evidence to go on, send up men up for bad livelihood on the suspicion that they know something of some crime that has been going on in their village; but I am sure that quite as often—

indeed much oftener—the police are told by respectable villagers, 'So and so is concerned in all the petty thefts we have had lately; why don't you take him up?' and when these same men are called on in a court to state their knowledge, or even belief, respecting the man's character, they say they know nothing *against* him, or even that he is a man of bad character,—this from a fear of, or not wishing to offend, him and his relatives. In fact, the police here find it very difficult to procure the chaukidar and two or three cultivators to testify against the accused, which it seems to be so easy to do in Bengal. Practically, I have found very few cases sent up in the *ordinary way* by the police; but when on tours in the district, on arriving at localities where crime is frequent and bad characters known to be plentiful, I have first conversed quietly with headmen and respectable inhabitants, and ascertained for myself the principal known and suspected bad characters in the village or town. The police have then been told to send up any men they deem the law should be enforced against; and I have then found that the respectable villagers, knowing that they have already themselves complained to me of these men, and feeling the eyes of their own little world upon them, are ready, if not very willing, to give evidence as to character, which in a distant court they would have suppressed or slurred over.

"The greater number of those proceeded against are youngsters from 17 to 25,—idle and worthless young vagabonds, often sons of very respectable parents, but preferring to spend their time in gambling and cock-fighting, going about from place to place, and associating with one or two older confirmed thieves, whom they join in petty thefts, and often, in the end, in more serious crime.

"An instance among many may illustrate this. A certain village of about 20 houses was notorious for the number of thefts on boats anchored for the night anywhere within two or three miles of the vicinity. One or two known thieves lived there, but no evidence could be got in the village. At length a dacoity occurred, of which these men and two or three of the village lads were convicted. I went down to the village, got some little evidence from outsiders, with great difficulty, that the young men of this village were all known to have formed an association, and be concerned more or less in these thefts. By talking in a friendly way to the fathers and friends of these lads, they confessed that they could not manage the young men. I then placed 15 lads, of from 16 or 17 to 25, on security for one year: their parents and village elders came forward as sureties. I was then only a Sub-divisional Magistrate, so they might have appealed. They did not, but, when the year had expired, the village elders and sureties of all, except one or two, came and begged me to demand security again for another year in order that the lads might get regularly settled down. This little history illustrates in several points the working of the law in British Burma. A great number of those brought under its operation are simply idle vagabonds, known to be continually gambling with older and well-known old thieves and receivers, and yet have no ostensible means of procuring the money for this expensive amusement, often combined with the luxury of opium-smoking. No actual crime, even by 'repute,' can be proved against

them; but I presume if the words 'of notoriously bad livelihood' are to be taken in their common English sense, the provisions of the law may justly be enforced against them. When enforced, it causes no practical hardship, for it is a system exactly suited to the Burmese mind; their friends and relatives come forward, and in almost every case are accepted as security, and it shows the good points in the Burmese character, that these men really, I believe, exert a check on their vicious propensities for the time in order not to bring their relatives who have gone bail for them into trouble, for the penalty of the bond is very seldom enforced owing to the default of the principal. I doubt if I have known, in 10 years' experience, of half-a-dozen persons who have been imprisoned according to the order in default of furnishing the required security. When they have been, it was either that they were confirmed criminals, whom no one would stand surety for, except their own nearest relations of nearly equally bad repute and no property, or else the amount of the security demanded was for some reason purposely placed high in order that only really tangible and good security should be accepted. In one case of this kind, a man of a well-to-do family, who had fallen into confirmed opium-smoking habits, harbouring and receiving from all the thieves in the country, having been confined under this law for one year (his relatives declining, although well able to do so, to furnish security), some couple of months after his release, walked in from his village to my house to thank me for having cured him of opium-smoking, and made a respectable man of him again; and such he really remained as long as I knew him for more than a year after.

"It may be said that these are exceptional cases, but I can only say that such has been my own experience of the working of the law in three different districts of Burma. Of course, such a law is liable to abuse, as must be any law that puts authority without appeal into the hands of a Magistrate, as in section 273, Criminal Procedure Code; and all depends on the way in which the person entrusted with such power exercises it. On the question as to how the law works generally in the *province* of British Burma, I can, of course, offer no opinion beyond my own experience, which is that there are not the abuses of it that seem to be common in Bengal, nor do I think they are likely to occur to any appreciable extent. I do not think it necessary to give statistics, as they can be simply copied from the annual criminal justice returns."

*Toungoo.*—"The number of persons brought up by the police under the sections alluded to during the past year were 47, of which 43 were convicted. The number of prosecutions, therefore, does not appear to have been excessive in any way. The power conferred upon District Magistrates in regard to taking security for good behaviour is a wise provision, but, at the same time, it is, of course, capable of abuse. I certainly am of opinion though that all persons convicted for bad livelihood, &c., should have a right of appeal."

As the Chief Commissioner, of course, is aware, the manner in which and the degree of justice with which the law against bad characters is worked out in each district depends almost entirely on the particular character of the District Magistrates.

What in one district would be received as sufficient to allow of a

presumed bad character being called on for security would not be regarded in another as enough to justify his prolonged detention.

It is therefore, on principle, just that an appeal in all cases should be allowed to the extent that is allowed in cases of conviction under offences cognisable by the magisterial authorities, but not further.

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From the Commissioner of the Arakan Division, to the Secretary to the Chief Commissioner, British Burma,—No. 133, dated 29th April 1878.

In reply to your letter No. 276-160, dated 28th February last, I have the honour to report that in my opinion the law relating to the trial of bad livelihood cases has worked well in British Burma, and that its special provisions have not been oppressively made use of, or otherwise abused, by any of the District Officers or by the police in this division.

2. Burmans and Arakanese alike are proverbially an indolent and improvident race. In ordinary cases, they will only work as long as they are necessitated to provide for themselves the means of subsistence. As an additional incentive to idleness, a large proportion of the population in each district in Arakan has become depraved and demoralised by the use of opium. So great is the depravity that, in the language of the country, "opium-eater" and "thief" have become synonymous terms.

3. It is very rare indeed that a Burman or Arakanese who has once taken to opium ever works for a livelihood, and this constitutes one of the remarkable differences between Burmese and other opium-smoking races; for instance, Chinese and Chittagonians, amongst whom opium, taken in moderation, acts as a stimulant, and in no way interferes with their capacity for work, or their inclination to gain an honest livelihood.

4. On the other hand, a Burman, already by nature wedded to indolence, has no sooner imbibed a taste for opium than, *ipso facto*, he becomes incapacitated for all active employ, and his only concern is to subsist in the easiest and quietest way to himself; that is to say, without work of of any kind, and without the necessity of gaining his livelihood by honest labour. It thus happens that in almost every village there are a number of idle vagabonds who follow no lawful calling, but who gain a precarious subsistence by criminal practices of various kinds, and by preying upon society at large.

5. Owing to the sparseness of population in Burma, and the smallness of villages as compared with Lower Bengal, the men who live by petty though undetected crime are always pretty well known in the villages they prey upon. Speaking from experience, I can affirm without hesitation that in Burma it is the villagers who are, as a rule, the informers in bad livelihood cases, and not the police.

6. In fact, I believe it to be the opinion of District Magistrates all over the province that the police seldom act, *suo motu*, in making arrests in bad livelihood cases, and that action in all such cases originates with village informers or with the District Magistracy. On this point, the Deputy Commissioner of Sandoway, an officer of long Burmese experience, writes as follows:—

"I may mention that the native police of British Burma are totally unlike the

police of Bengal, and the police of the province are by no means too prone to get up cases of bad livelihood. On the contrary, I doubt whether they do their duty sufficiently in this respect, and I am quite sure that their action in the matter does not tend to any such oppression, alarm, extortion, intimidation, and wrong as is supposed to be involved in the prosecution of such cases in Bengal. In this district, people are seldom prosecuted for bad livelihood except on the complaint of some villagers, and every accused person is allowed full means of showing that he does earn an honest livelihood."

7. It is on this account, and because I do not conceive that, under the circumstances, arrests and prosecutions in bad livelihood cases have been excessive, that I have been induced to express an opinion in favour of chapter 38 of Act X of 1872 as it at present stands, and to doubt the wisdom or the necessity of admitting appeals in bad livelihood cases from District Magistrates to Courts of Session.

8. If District Officers have been found to abuse their powers in Bengal, it appears to me that other simpler remedies may be resorted to without altering a special provision of the law which is applicable to the whole of India, and which could never, in the first instance, have passed the Legislature without weighty considerations, which can hardly have lost their force since Act X of 1872 received the assent of His Excellency the Governor General of India.

9. District Officers are now authorised under the law to try summarily certain offences, many of them more grave in their nature than bad livelihood, and without appeal; and it is somewhat inconsistent, whilst granting these summary powers under section 222 of the Act, to tell these officers that they are not to be trusted with similar powers under section 504, and will only be allowed the exercise of them subject to appellate jurisdiction.

10. Again, I am opposed to any change in the existing law, because in its present state, and under judicious control, it benefits and is useful to the general administration. I believe that, in Burma, a much larger number of men than those who at present thrive so abundantly on petty crime would take to vagabondage and bad livelihood were it not for the fear of incarceration under section 504 of the Code of Criminal Procedure. Such men, of necessity, become labourers and artizans, and thereby benefit themselves and the State; at the same time, many who have suffered incarceration in default of security for good conduct have been induced in consequence to separate themselves from opium, and on their release from jail to lead steady and respectable lives, and to work for their daily subsistence.

11. On this subject, Mr. St. John, Deputy Commissioner of the Akyab District, writes as follows :—

"In this district—and in fact, I may say, all over Burma—the greater proportion of those who are put in far bad livelihood are opium-smokers, who never do a day's work, but are forced to obtain a precarious livelihood by petty pilfering, which is difficult of detection. These men, if they go to jail, are taught a trade, and in many cases, having been cured of a bad habit, become reformed characters."

12. For ready reference, I append to this letter extracts from my annual report which refer to the relationship which exists between opium-smoking and bad livelihood cases in this province.

13. The reports of District Officers are herewith submitted as per margin. Amongst these, Colonel Hildebrand appears to me to give conceisly, and in simple form, a few arguments in favour of the present law of bad livelihood in its special applicability to the requirements of British Burma.

Letter No. 81, dated 14th March, 1878, from Deputy Commissioner, Akyab.
Letter No. 87-25, dated 1st April, 1878, from Deputy Commissioner, Kyouk-phyoo.
Letter No. 30-35, dated 22nd April, 1878, from Deputy Commissioner, Sandoway.
Letter No. 41, dated 25th March, 1878, from Town Magistrate, Akyab.

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Extract from the Annual Report on the Administration of Criminal Justice of the Division of Arakan for the year 1877, paragraph 2.

Paragraph 2. * * * *

The increase in bad livelihood cases occurred chiefly in the Akyab and Kyouk-phyoo districts, and is commented upon by the District Officers as follows:—

Mr. St. John says:—

"One hundred and thirty-four persons were ordered to find security for good behaviour, against 21 in 1876; but I do not think that these powers have been in any way unduly exercised. Of the whole number, only 11 could find security, though the usual amount demanded was two sureties in the sum of Rs. 50 each. One person was sent to the Sessions Court, and was required to furnish security under section 506, Criminal Procedure Code."

Mr. Duke says:—

"One hundred and sixty-six persons were ordered to give security for good behaviour during the year, against 56 in 1876. Of these, only 25 furnished security the rest being imprisoned in default. The increase is owing to the large number of opium-smokers and men without employment in this district. Most of these men were reported by the villagers, and arrested at their request."

A separate report on the subject of the abuse by Magistrates of their power to require security in bad livelihood cases is now in course of preparation, and will be separately forwarded in due course.

I will only draw attention here to the remark made by the Deputy Commissioner of Kyouk-phyoo, to the effect that arrests in bad livelihood cases are almost all made at the instance of villagers, and seldom or ever by the police.

I am able to endorse this remark in its entirety, and to say, from my former experience as a District Officer in Burma, that it is substantially true. My own opinion is, that when men of known bad livelihood abound, and become a terror to the people, Magistrates would be wanting in their duty if they did not attend to every representation made in good faith against men of known bad livelihood, and put into forcible operation the special powers with which the Legislature, for some good and special purpose of its own, has deliberately invested them.

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From the Deputy Commissioner, Akyab, to the Commissioner of the Arakan Division,—No. 81, dated the 14th March 1878.

I have the honour to acknowledge the receipt of your docket No. 96 of 1878, forwarding correspondence regarding the way in which bad

livelihood sections of the Criminal Procedure Code are worked in Bengal, and asking me to report on the working of these sections in this district.

2. The chief question appears to be the advisability of allowing an appeal from District Magistrates, and is one in which I do not very well see how I can give an opinion. As I am not conscious, however, of ever having abused those sections, I answer that, as far as I am concerned, there is not the slightest reason why an appeal should not be allowed.

3. Under the provisions of the present Code, a case of bad livelihood sent up to the District Magistrate can be tried summarily, as well as a case of theft; and I submit that if a District Magistrate cannot be trusted to try a case of bad livelihood when no appeal lies, neither should he be invested with powers under section 222, Criminal Procedure Code. As, however, most of the cases sent up to me are sent up by the Native Magistrate under the last clause of section 504, the evidence is generally recorded in full.

4. From my experience of these cases, I do not find that the police find them easy to make up, and conviction is as difficult to obtain as in any other; in fact, there is a difficulty in obtaining good evidence against bad characters. What one has to fear more than anything is that persons may be induced to come forward and swear a man to be a bad character out of spite.

5. In this district, and in fact I may say all over Burma, the greater proportion of those who are put in for bad livelihood are opium-smokers, who never do a day's work, but are forced to obtain a precarious livelihood by petty pilfering, which is difficult of detection. These men, if they go to jail, are taught a trade, and in many cases, having been cured of a bad habit, become reformed characters.

6. Even looking at the matter in the light of expense, I must say that I should think that in these provinces the system is a profitable one; for I feel sure that for the cost which is incurred to keep these men in jail, *minus* the profit to Jail Department on account of the work done by them, it would be impossible to raise the police force to that state of efficiency to which it ought to be raised if crime is to be properly detected and suppressed, as pointed out in the 8th paragraph of Mr. Cockerell's letter. Whatever may be the state of the police force in Bengal, I do not think it can be said of the police in British Burma that they "lead lives of idleness and quiet" in their stations.

7. If matters really are so bad as it is supposed, I do not think that a simple addition, like the one proposed, will be of any service whatsoever, but that it will be necessary to recast the whole chapter. Under section 504, Criminal Procedure Code, it does not appear that any evidence as to character is required at all; the words of the section are simply, "whenever it appears to the Magistrate of the District," &c., &c., and it is only a Sessions Judge or Magistrate of the 2nd or 3rd class who need act upon evidence; and it would seem that it is only under sections 505 and 506 that a District Magistrate is required to take evidence. Again, section 515 requires that evidence shall be taken "as in cases usually heard by a Magistrate," and as a District Magistrate usually hears summons cases summarily, there would be no record whatever for the Sessions Judge or High Court to go on, and it will be necessary to direct that the evidence in these cases be taken in full.

8. There is one point to which I would wish to draw attention, and which I believe does lead to oppression, and that is the indiscriminate way in which bad livelihood cases are sent up by the police. The law clearly recognises two distinct classes, *viz.*, (*a*) those bad characters who are "lurking"—that is to say, those who have no fixed dwelling-places; and (*b*) those who have a fixed residence, but no ostensible means of livelihood and a bad reputation. In the first instance, the police ought to have the power to arrest; and in the second, they should not. The police however, instead of reporting the latter class for the orders of the Magistrate, indiscriminately exercise the powers given them under section 94, Criminal Procedure Code. I have on several occasions pointed this out to police officers, and believe that a circular on the subject would probably do greater good than any alteration of the existing law.

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From the Deputy Commissioner, Kyouk-phyoo, to the Commissioner of the Arakan Division,—Nos. 87-25, dated 1st April 1878.

In reply to your docket No. 96 of the 13th March 1878, enclosing correspondence on the subject of requiring security for good behaviour, I have the honour to report that during 1877 the police sent up 181 persons. Of this number 15 only were acquitted or released; of the 166 who were called upon to furnish security, 25 only were able to furnish security, and 141 were sent to jail in default: this appears high.

2. It is no doubt a provision of the law which requires care to prevent it being oppressively used, and allowing an appeal would be a great check. On the other hand, it gives one great power to get rid of loafing, idle hands, who, but for the fear of being incarcerated in jail, would never follow any lawful calling.

3. In all the cases convicted, the security demanded was never more than two of Rs. 50 each, and that, if the men had the least pretention to honesty, might, I think, have been provided by their friends and relations. But as I have only just taken charge of the district, and all the cases were tried by my predecessor, I am unable to say why so large a proportion failed to furnish a security which can scarcely be called high, and can only infer that they were men of such shady reputation that not even their friends would come forward to help them.

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From the Deputy Commissioner, Sandoway, to the Commissioner of the Arakan Division,—No. 30-35, dated 22nd April 1878.

I have the honour to acknowledge the receipt of your docket No. 96 of 1878, forwarding copy of letter No. 227-30, dated 4th ultimo, from the Judicial Commissioner, British Burma, to your address, with its enclosure, on the subject of the working of the law for requiring security for good behaviour.

2. In reply, I beg to annex a statement showing the number of cases reported and the number of persons convicted of the offence yearly, for the years 1872 to 1877, and to make a few observations thereon.

3. I have no reason to believe that the law has been abused in this district. In it, as in every other district in the province, there are men

who, having no private means of their own, will nevertheless not work honestly to obtain a livelihood. These men are generally opium-smokers, and many of them have no fixed place of abode, but wander about from village to village, subsisting partly on the charity of the honest people of the village, and partly on what they can earn by committing petty thefts. Others are young men who live with their parents or relations, and are fed and clothed by them, in return for which they do a little work; but as these young men are also given to pleasures and to the use of opium they require money, and this not being supplied to them by their relatives, they earn it by committing petty thefts. Sometimes these are brought home to them, and then they are sent to jail for a short time; but many cases are not detected. It is against these two classes of persons that the law on the subject of bad livelihood is generally and advantageously brought to bear. It is far better, both for the community in general and for these people in particular, that they should be made to work inside a jail, than that they should live a vicious life outside the jail—a burden upon, and terror to, the hard-working and well-disposed people of the district.

4. I may mention that the native police of British Burma are totally unlike the police of Bengal; and the police of this province are by no means too prone to get up cases of bad livelihood. On the contrary, I doubt whether they do their duty sufficiently in this respect, and I am quite sure that their action in the matter does not lead to any such oppression, alarm, extortion, intimidation, and wrong as is supposed to be involved in the prosecution of such cases in Bengal. In this district, people are seldom prosecuted for bad livelihood, except on the complaint of some villagers; and every accused person is allowed full means of showing that he does earn an honest livelihood.

*Bad Livelihood.*

| District. | 1872. | | 1873. | | 1874. | | 1875. | | 1876. | | 1877. | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. |
| Sandoway ... | 10 | 34 | 39 | 71 | 20 | 52 | 4 | 7 | 40 | 51 | 19 | 19 |

From the Town Magistrate, Akyab, to the Commissioner of the Arakan Division,—No. 41, dated 25th March, 1878.

With reference to your docket No. 96 of 1878, on letter No. 227-30, from the Judicial Commissioner, to your address, on the subject of requiring security for good behaviour, I have the honour to offer the following remarks.

2. During the year 1877, 28 persons were sent up by the police of Akyab town for bad livelihood, and of these 19 were convicted. I do not

think this can be called an unnecessarily large number for Akyab, when it is taken into consideration that the actual resident population of the town is over 21,000; that it has an influx of some 10,000 coolies from Chittagong during the harvest and milling season; that it is a large sea-port where all kinds of characters from other places are constantly on the move; and lastly, that it is burdened by a district jail, and that until the latter part of last year all prisoners from Kyouk-phyoo were discharged here,—men who often could not, or would not, make their way back to their native villages, but remained in and about Akyab smoking opium, gambling, and living by petty theft. These latter facts were brought to the notice of the Commissioner, and resulted in the discharged Kyouk-phyoo prisoners being reconveyed to the original jail and there released. The town since then (and apparently in consequence) has enjoyed a very marked diminution in crime.

3. Cases of bad livelihood are invariably investigated either by the Superintendent of Police in charge or by an Inspector; but even then I have not unfrequently found that the police have aimed at getting a man put on security whom they suspected of some certain offence that they could not bring home to him. Of the 19 men convicted, 6 persons gave security and 13 were remitted to jail in default. I have always discouraged the working of bad livelihood sections, unless actually unavoidable; and in many of the cases convicted, I know that several of the offenders had been warned not to continue in their evil courses. I do not, therefore, consider that the sections have been oppressively worked.

4. There is one thing certain, that the power thus entrusted to the magistracy is one that should be most carefully and thoughtfully exercised, although as a rule, in Burma itself, any man (provided he is not an utter outcast) can find plenty of relations who are willing to look after him and go bail for his good behaviour; and such men as a rule very rarely misbehave themselves whilst under such surveillance, although they not unfrequently break out into crime again when it is removed.

5. There would be, however, no objection to an appeal lying to the Sessions Judge from an order given by the Magistrate of the District, although I think in Burma itself but little use would be made of such a privilege. It may be different, however, in the districts of Lower Bengal, where the sections would seem from the returns to have been worked in an unnecessarily hard manner. The reason I say that I think the privilege of appeal, if conceded, would be rarely used if the power was exercised with discrimination by the sentencing Magistrate is, that during the whole of the two years that I was a subdivisional officer in charge of the large subdivision of Tharrawaddy, with a turbulent and often troublesome population, and where it was more necessary than in most other districts to put the sections in force, not a single appeal was ever preferred to the District Magistrate, although they were ready to bring convictions under other heads before him for revision. Perhaps this may be due to the fact that the investigations into cases of this nature were almost invariably conducted at a man's own village, the Thoogyees or elders would give their evidence, and no possibility of a man's actual character being misrepresented without his having ample opportunity to rebut the charge by witnesses on the spot being feasible; but I never

then permitted any head of a thannah to charge a man under these sections unless the Inspector in charge had satisfied himself that the offender was an incorrigible. I do not myself believe that it will be necessary to exercise the power contained in these sections to nearly the same extent this year, in Akyab town; for instance, we are but six days from the termination of the first quarter of the year, and within this quarter but three men have been sent up by the police; of those two were released, being found to be merely idle scamps; and the third, who was found lurking under a house, the corner of which had been cut open that evening, and when evidently an attempt at theft had been made, who was a convicted felon and a previous bad chraracter, was ordered to give security.

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From the Judicial Commissioner, British Burma, to the Secretary to the Chief Commissioner, British Burma,—No. 545-30, dated 16th May, 1878.

I have the honour, after receiving reports from the Commissioners (which the Chief Commissioner has also received) and the Judge of the town of Moulmein (whereof I enclose copy), to submit such opinion as I have been able to form on the working of chapter 38 of the Criminal Procedure Code in British Burma.

2. The danger from want of caution which is said to amount to a great evil in Bengal, has not been overlooked here. In page 80 of the Judicial Commissioner's report for 1874 will be found a remark by a Magistrate, Mr. Spencer Smith, that there was a danger that the police might wish "to supplement their detective deficiencies by a resort to those sections (*i. e.*, about security) in the case of offences against the perpetrators of which they cannot obtain sufficient proof." There are also highly interesting quotations from Colonel Duff and Mr. Ireland, regarding Henzada and Rangoon, at page 103 of the Judicial Commissioner's report for 1875. These reports confirm the opinion I entertain from those now before me, *viz.*, that the magistracy is conscious of the evils which may result from any incautious use of preventive jurisdiction, and that there are peculiar features in the population which, especially in certain parts, make the extensive use of these powers not only expedient, but very necessary. As on the north-western frontier of India special measures have had to be adopted to prevent crimes of violence, so I am inclined to think a constant energy is required on the part of the police and magistracy in the districts bordering on Native Burma and the hill tracts of Arakan and Karennee. Less in Arakan, apparently, than elsewhere, but everywhere in British Burma, a man, if he has got any remnant of good in him, is able to find friends who will go security for him to a moderate extent. Those who have no friends must presumably be foreigners, less under the good restraints of family life, village opinion, and settled occupation: these are the men who appear to be committed to prison in default, and it is only reasonable that this result should be the one reported. They appear to be people from Upper Burma, who, after squandering their harvest earnings in gambling, take to dacoity or theft:

Red Karens or other half civilised people from across the frontier, who come to work on the Burma homesteads, and to whom the wealth and comfort of the Burman suggests dacoity; and in Rangoon District and, I believe, elsewhere, vagabond Chinese who grow rich on the vices of people, getting up lotteries, keeping gambling-houses, selling opium, and receiving stolen property.

3. In the short time that I have been in this province, I have tried, at sessions or in appeal, many cases in which people of the two first classes were concerned: in one, tried at Bassein, it was proved conclusively that a certain proclaimed outlaw had equipped an armed force of at least 13 men in Native Burma, and descended several hundred miles by the Irrawaddy stream, and committed a great dacoity. Seven of them were transported for life: the others have not been caught. The capture of these seven occurred from the peculiar vigilance of some villagers and the bravery of some police. I instance this case to show the formidable crimes to which this wealthy region is exposed from the lazy marauders around. So long as the Irrawaddy and other great rivers continue to be easy highways, it is highly desirable that all preventive powers should be put in force. In another case, it was proved, what is a common case, that a gang of Red Karennee harvestmen lived in a suburb of a Burman village by themselves: merely because a policeman taunted or warned them against being dacoits, they put him to death. The villages in Burma are not compact, and often walled places, like those in India, but are a few huts, five or six here and there, with jungle affording cover round, and a place below the house apt for concealment. These facts give a gang of dacoits, who perhaps have been working there all the season, great advantage. They come ready armed, and in such numbers that it is dangerous for the neighbours to oppose them, and often dangerous for the police and magistracy to watch all such hamlets of foreigners as suspicion attaches to. In this respect they resemble the camps of some lawless wandering tribes in India, like the Brinjarees and Wadders in the Deccan or Mysore.

4. Another set of characters commented on by Lieutenant-Colonel Sladen, Commissioner of Arakan, and by the Deputy Commissioner of Shwe-gyeen, are ordinary villagers who take to opium-smoking or to gambling, and who soon pass from these ill practices to the habitual commission of crime. The Shwe-gyeen Magistrate mentions the case of a reformed opium-smoker, who some months after release appeared and thanked the Magistrate for the severity which had produced reformation. It appears further from several other reports that the friends of such reprobates are not sorry to have this jurisdiction exercised, and occasionally (see page 103 of Judicial Commissioner's Report, 1875) let their relative have a taste of jail as a warning. It is also generally admitted that the sureties look after the man's conduct; and in the Special Court the learned Recorder and myself have held that a contract of indemnity for payment of the bond is not illegal nor against public policy. No better state of things can be desired than when the jurisdiction is exercised with the full approbation of the people, when the security is commonly furnished, and the State is not only saved the expense of feeding people in jail, but those most interested in the vagabond or bad person are more distinctly interested in his welfare.

5. The Judge of the town of Moulmein points out that the Bengal minutes do not notice the fact that the preventive jurisdiction of the Magistrates extends, not only over the reputed criminals, "notoriously bad livers and dangerous characters" mentioned in section 505 of the Code, but also to three other classes specified in section 504, who are not necessarily criminal, and who are therefore more leniently dealt with. These three classes are such as,—*1st*, lurk in the Magistrate's jurisdiction; or *2nd*, have no ostensible means of subsistence: or *3rd*, cannot give satisfactory accounts of themselves. I concur with the Judge in thinking that in many cases it is better to apply section 504 than to wait till such men, from want, or solicitation, or freak, commit crime. In justice to the police, also, I must add that section 94 of the Code gives officers in charge of police stations power to arrest people of these three sorts, as well as the reputed criminals, without orders from a Magistrate. Where crimes, such as dacoity, theft, arson, or even gambling, are rife and remain undetected, or otherwise the public are in general danger, the police ought to exercise these powers, controlled, if need be, by the Deputy Commissioner in his legal capacity as head executive of his district. The perusal of the reports leads me to suppose that the police do not exceed their powers. An example of the District Magistrate's control is afforded in Shwe-gyeen; the Magistrate of Moulmein is said to act with great discretion; the Town Magistrate's report speaks for itself as regards Akyab; in Tavoy only three people were ordered to find security, and they did find it. The test applied by the Bengal minute seems to me based on a wrong theory: I would say that if, through a very bad harvest, serious crimes abound, as the Bengal Administration Report states, the police ought more vigilantly to use the power conferred by section 95; and also in Burma, if the fine harvest and high prices operate as an inducement to freebooters, the ratio between dacoities and demands for security ought to be direct, not inverse.

6. This examination of the state of things here being discussed, I come to the question raised as to whether there should be an appeal allowed to the Sessions Judge and the High Court. The Commissioners of Pegu and Tenasserim, who are Sessions Judges and have had long experience of the province, think that, as a matter of principle and an additional safeguard of the liberty of men, there ought to be such appeal; but they do not speak of the existing law as badly administered; and Colonel Sladen, the Commissioner of Arakan, is of opinion that it should not be altered. The moderation with which the question is discussed appears to me to show that it matters little how it is decided here. It is pointed out, on the one side, that the power now vested in the higher magistracy in such matters is great: it is answered that most of the higher magisterial business is serious, and that if they are unfit to exercise this, they are also unfit to exercise their powers.

7. Having been Sessions Judge and Magistrate in the older province of Bombay, I may remark that these arguments touch on the whole system by which some provinces are administered on the non-regulation system. My experience in Bombay, in the above capacities and as Registrar of the High Court, having to examine returns, leads me to suppose that the law works well enough there. The law and its principles

are well known to the Magistrates, and also to the public: any person aggrieved can apply to the Sessions Court or the High Court in revision. Such applications are, I believe, rare.

8. The Magistrates here have more functions; and the District Magistrates, who are sometimes rather young officers, have the power of awarding seven years' imprisonment under section 36 of the Code, which sentences they can commute into transportation. Many of them can try by summary procedure in smaller cases. This power is extraordinary, and requires much supervision. These facts indicate the system of the province. There are only three Sessions Judges, and but for the increased powers of the Deputy Commissioners, it is probable that these three would be swamped with sessions trials. Accepting, therefore, the system on which the details are based, I do not think the exercise of powers in security cases by these Magistrates is anomalous.

9. There are reasons for objections against, and remedies in, such cases. The reasons for upholding the present law are that the higher Magistrates know their districts, and, being in the habit of exercising great powers, will use their responsibility well. The reasons against are somewhat as follows: they make mistakes sometimes, which an appeal would remedy; they may get here and there into a habit of accepting mere statements of what they called the elders of the village, or of a police officer, or some secret informant, and pass their orders on such imperfect information, instead of exercising, as the law requires, a judicial discretion; they may exceed their proper functions and the limits of the law, and pretend to be censors of morals. I rather incline to think that some confound "opium-smoking" with "notorious bad character," —a mistake equal to, or worse than, confounding ordinary gin-drinking with drunkenness. All experience of puritanic endeavours of that sort, such as I have sometimes witnessed in Native States, shows that they end in greater evils. Mr. Palgrave tells us of the mischief caused in the Wahabee kingdom in Arabia by the attempt to stop the smoking of tobacco. One Magistrate who has reported is of opinion that he may proceed under section 504 on his own knowledge or guess; whereas section 515 assumes that notice will be given to the accused, and a hearing and taking of evidence are implied. In Madras, as well as in Burma, it has happened that the person called on for security has been locked up without an opportunity of trying to find sureties. For all such errors of law or judgment, some remedy is desirable in the interests of the State, as of individuals.

10. This statement of objections shows that they are of a kind that may be urged against the commonest instances of magisterial practice. If a Magistrate is not careful, he may do great mischief by unduly awarding fines of amounts too low or excessive; by awarding whipping; by refusing bail or requiring too high bail; by issuing unlawful orders under section 518 of the Procedure Code; by unlawful convictions under section 188 of the Penal Code; by trying contempts committed before himself; by passing sentences so small as to prevent appeal. These facts show abundantly the need of careful supervision, and, if I thought this was wanting, I would recommend a change in the law; but I know of no procedure which, in bad hands, may not be worked carelessly or unjustly, and no procedure which may not admit of criticism.

11. I think, however, the general result, and not the occasional mistakes, must be principally regarded; and from the reports it does not appear that the law is indiscreetly administered. The District Magistrate's jurisdiction to release exists in all cases, and may be appealed to. He ought also to correct the mistakes of his subordinates. The other existing safeguards affording remedy are the provisions of sections 295, 296, and 297 of the Code; the High Court or the Court of Session may call for cases; persons aggrieved may apply under these sections. The Judicial Commissioner does occasionally call for cases, and his tours about the country ought to make this easy. The Sessions Judges might well examine a number of such cases on their tours, and report illegal proceedings to the Judicial Commissioner. I am inclined to think that certain careful directions, explaining the principle of the law and describing the errors to be avoided, will suffice to prevent any great amount of mistake or injustice. It must be remembered, too, that there are only three Sessions Judges; and I think the District Magistrates must act under a deeper feeling of responsibility when they know that their decisions are unappealable. If they are judicially minded, they are likely to be better judges in such matters from their local position and peculiar duty as preventers of crime. Evidence of mere repute is a very peculiar kind of evidence, and, on the whole, so long as the Judicial Commissioner and Sessions Judges travel about the land, I think that the remedy by revision is as adequate and less conflicting with the executive administration than the remedy by appeal. If the Code is revised, I would, however, insert words in section 504, providing distinctly for the taking of evidence and for the case being a judicial proceeding, and therefore subject to revision.

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From the Judge of Moulmein, to the Judicial Commissioner, British Burma,—No. 54-2, dated 27th March 1878.

I have the honour to acknowledge the receipt of your letter No. 230-30, of 4th instant, inviting my opinion on the subject of requiring security for good behaviour.

2. From the statistics for the province it appears that the preventive jurisdiction of Magistrates as regards suspected persons is exercised in proportion more largely in British Burma than in other parts of India. This may be attributable to the fact that many districts are liable to the influx of bad characters from neighbouring independent territory, and to the character of the males of Burmese communities, whose want of industry and thrift is likely to lead them into criminal habits.

3. The Lieutenant-Governor of Bengal appears to assume that the law relating to prevention of crime is directed only against reputed or habitual criminals; but the Criminal Procedure Code clearly provides that *any* person found lurking, or *any* person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, may be called upon for security. The necessity for the exercise of this power must, of course, depend upon the existence in a greater or less degree of the class of idlers and vagabonds against whom the law is directed, and, in a sparsely populated country like British Burma, where work is easily

procurable, there is reason to suppose that want of occupation is due to a man's own fault.

4. The Indian law regarding bad livelihood is hardly more severe than the English law relating to vagrants, rogues, and vagabonds (Geo. IV, chap. 83; and 11 and 12 Vic., chap. 43); nor do I think that the stigma of imprisonment—owing, perhaps, to the different character of the people here—works such evil consequences as those pointed out by Mr. Eden. Hence suspected persons are perhaps more effectively dealt with by the milder provisions of the law for bad livelihood than if they were left to incur the risk of punishment for actual crime. I do not think, therefore, that it is safe to assume from figures only that the power of demanding security for good behaviour is generally abused.

5. I would not, however, be understood to say that the exercise of the power does not demand caution: as far as action of the Magistrate of Moulmein is concerned, the power seems to be exercised by him with great discretion. It may, however, be that similar discretion does not prevail everywhere; and this brings me to the question of remedying the abuse of this power by making the District Magistrates' sentences appealable.

6. The limit of appeal from orders for security was no doubt decided on for good and sufficient reasons; probably because, in the exercise of the peculiar powers under chapter 38 of the Criminal Procedure Code, a wide discretion is given to the District Magistrate, not only as to *convicting*, but also as to *releasing*, persons confined under requisition of security for good behaviour; and, being so, it seems to me undesirable to hamper that discretion in an officer of the standing of a District Magistrate, by making his order appealable, especially as he may be supposed to act upon much information that may appear important to him, which yet may not be sufficiently disclosed in the proceedings to guide the mind of the Court of Sessions or High Court in appeal.

7. The remedy lies rather in presenting the nature of the testimony to be taken, and in enquiring into cases of apparent abuse of the power. Testimony other than official should in all cases be insisted upon, and, if possible, the evidence of elders of the village or quarter should be taken. Where such evidence is forthcoming against a suspected person, the decision of the Magistrate of the District may, I think, be accepted.

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From S. O. B. Ridsdale, Esq., Secretary to the Chief Commissioner of Assam, to the Secretary to the Government of India, Home Department,—No. 1011, dated Shillong, 27th May 1878.

I am directed to acknowledge the receipt of your confidential letter No. $\frac{3}{226}$, dated 16th February 1878, and enclosures, asking the Chief Commissioner to report as to the working of the provisions of the law in this province, which allow imprisonment on a charge of *reputed* bad livelihood in default of finding security, and as to whether an appeal should, in such cases, lie to the Sessions Judge and the High Court.

2. With reference to the first point, I am directed to draw your attention to the annexed statement showing the number of cases reported and the number of persons convicted for bad livelihood in Assam during the last five years from 1873. It will be observed from the paucity of cases instituted that the law relating to bad livelihood has been very sparingly resorted to in this province, especially in the Assam Valley Districts and Cachar. The litigious character of the people of Sylhet, who manifest a disposition to bring charges of this nature against their neighbours as a last means of gratifying enmity, accounts for the large number of institutions in that district. The Chief Commissioner has, however, no reason to believe that the law has been abused anywhere in Assam.

3. As regards the general question raised in the correspondence, *viz.*, whether appeals should lie to the Judge from the decision of the Magistrates in such cases or not, I am directed to say that, on the whole, the Chief Commissioner is of opinion that it would be inexpedient to allow such appeal. The possibility of relaxing the provisions of the law must, in a great measure, depend, Colonel Keatinge thinks, on the strength of the magisterial establishments in the country. In Assam, where the country is poor and the people have very long distances to go to find a Magistrate, it is very necessary that the chief officer of the district should be in a position to secure them from molestation by turbulent persons who might, in the absence of special provisions of the law, put quiet people in distant villages under contribution, without it being possible to prove anything against them that would render them otherwise liable to effectual legal restraint. The Chief Commissioner has known such cases to happen in the Central Provinces.

4. Colonel Keatinge is of opinion that it may be safely left to the Magistrate of the District conscientiously to discharge his duty in requiring proper proof of the *repute*. Such cases differ essentially from those requiring evidence of definite *facts*, which can properly be appealed against in the ordinary course. Latitude in these cases is expressly given, the Chief Commissioner understands, by the Criminal Procedure Code, to allow of such action by the Magistrate in the interest of the public security, when actual proof of crime is wanting; but when habitual criminal livelihood is notorious, the Chief Commissioner considers that to allow an appeal in these cases to the Judge would be, with the knowledge of the facility with which any amount of rebutting witnesses to

character can be produced, to practically neutralise this valuable power. On the other hand, if an accused person is really a respectable member of society he can easily produce the required security.

5. That false charges of this nature may occasionally be brought against respectable persons in the same way as other false charges are so frequently instituted, is, the Chief Commissioner fears, unavoidable. But this tendency would not, he thinks, be affected by prescribing a new procedure of appeal.

6. Under the present provisions of the law the High Court can, in any case, call for the record and quash the proceedings as a Court of revision, and this safeguard is, in the opinion of the Chief Commissioner, quite sufficient.

He would, however, further be inclined to direct that such cases should ordinarily be tried by a Subordinate Magistrate, in order that his proceedings might be reviewed on appeal by the Magistrate of the District.

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*Statement showing the number of cases reported and persons convicted for bad livelihood during the years 1873—77.*

| Districts. | | 1873. | | 1874. | | 1875. | | 1876. | | 1877. | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. | Cases reported. | Persons convicted. |
| Assam Valley. | Goalpara | ... | ... | ... | ... | 7 | 14 | 3 | 10 | 8 | 13 |
| | Kamrup | 7 | 5 | 8 | 15 | 10 | 8 | 5 | 6 | 3 | 5 |
| | Nowgong | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... |
| | Darrang | ... | ... | 1 | ... | 3 | 6 | 2 | 1 | 2 | 7 |
| | Sibsagar | 1 | ... | ... | ... | ... | ... | ... | ... | 1 | 1 |
| | Lakhimpur | ... | ... | ... | ... | 2 | ... | ... | ... | 1 | 1 |
| | Total | 8 | 5 | 9 | 15 | 22 | 28 | 10 | 17 | 15 | 27 |
| Surma Valley. | Sylhet | Information not given. | | 85 | 70 | 114 | 102 | 150 | 84 | 124 | 38 |
| | Cachar | 14 | 22 | 11 | 5 | 4 | 4 | 17 | 17 | 20 | 20 |
| | Total | ... | ... | 96 | 75 | 118 | 106 | 167 | 101 | 144 | 58 |
| Grand total | | ... | ... | 105 | 90 | 140 | 134 | 177 | 118 | 159 | 85 |

From MAJOR J. CLARKE, Secretary to the Chief Commissioner of Mysore, to the Secretary to the Government of India, Home Department,—No. 2648-23J, dated Bangolore, 6th July 1878.

IN reply to your confidential letter No. 3-225, dated 16th February 1878, calling for an early report on the working of the law in Mysore and Coorg, with reference to a letter from the Government of Bengal, recommending that, in all cases in which persons are required to furnish security for good behaviour, there should be an appeal to the Sessions Judge and the High Court, and suggesting that, in any future amendment of Act X of 1872, this point should be taken into consideration, I am directed to submit, for the information of the Government of India, copy of a letter on the subject from the Judicial Commissioner, No. 1221-96, dated 1st July 1878, and to state that the Chief Commissioner concurs in the views therein expressed.

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From J. D. SANDFORD, Esq., Judicial Commissioner of Mysore and Coorg, to the Secretary to the Chief Commissioner of Mysore and Coorg,—No. 1221-96, dated Bangolore, 1st July 1878.

WITH reference to your letter No. 10368-97, dated 26th February last, I have the honour to forward the accompanying statement showing the number of persons called upon to furnish security, and imprisoned in default thereof, in the several districts of Mysore and in the province of Coorg, under chapter 38 of Act X of 1872, and to state that the sections do not appear to have been worked to any great extent nor to have been used oppressively by the police in these provinces.

2. I, however, strongly recommend that an appeal should be given to the Sessions Judge from all orders passed by the District Magistrate under chapter 38, as I believe that the sections as they stand place far too arbitrary a power both in the hands of the police and in the magistracy.

3. I would not only give an appeal, but I would make it imperative for the Magistrate to record evidence *before himself* before he issues an order under section 504 or section 505.

4. I think the extent of the power thrown into the hands of the police and the magistracy by these sections is hardly appreciated. In the first place, the police (section 94, Criminal Procedure Code) can arrest without warrant a person who cannot, in their opinion, give a satisfactory account of himself, or is considered or said by them to be a reputed thief; the Magistrate, without recording evidence or making any enquiry, can require security from such a person, and in the event of his not being able to give it can commit him to prison, and can, under section 516, refuse to accept any surety whom he does not consider fit; and, lastly, there is no appeal nor any means of obtaining redress even from the High Court.

5. Any person who is aware of the multiplicity of the work thrown upon a District Magistrate which prevents him from giving his full attention to every matter which is brought before him, or from efficiently controlling every official subordinate to him, will understand that a great amount of oppression may be caused under these sections, and I do not think they should be allowed to remain in their present state.

6. And it is probable that where the Government of any State or Province devolves into the hands of officials who may not in all instances be as far removed from all suspicion of intentional oppression as English officials are, the evils allowed by the law, as it at present stands, and which will probably still regulate the proceedings of the Magistrates and police, will be, in a great measure, aggravated.

*Statement showing the number of persons called upon to furnish security and imprisoned in default of such security in each District during the years 1872 to 1877.*

| DISTRICT. | 1872. | | 1873. | | 1874. | | 1875. | | 1876. | | 1877. | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Persons called upon to furnish security. | Persons imprisoned in default of security. | Persons called upon to furnish security. | Persons imprisoned in default of security. | Persons called upon to furnish security. | Persons imprisoned in default of security. | Persons called upon to furnish security. | Persons imprisoned in default of security. | Persons called upon to furnish security. | Persons imprisoned in default of security. | Persons called upon to furnish security. | Persons imprisoned in default of security. |
| Bangalore | 13 | ... | 48 | 27 | 17 | 14 | 27 | 11 | 10 | 4 | 44 | 16 |
| Kolar | 42 | 42 | 37 | 37 | 25 | 20 | 19 | 14 | 14 | 13 | 115 | 113 |
| Jumkur | 3 | ... | 13 | ... | 2 | 1 | 5 | 2 | 1 | 1 | 7 | ... |
| Mysore | 9 | 3 | 64 | 40 | 44 | 35 | 27 | 12 | 20 | 5 | 26 | 13 |
| Hassan | ... | ... | 4 | 1 | 8 | 5 | 8 | ... | 3 | ... | 1 | 1 |
| Shimogah | ... | ... | 13 | 4 | ... | ... | 7 | 2 | 28 | 26 | 23 | 22 |
| Kadur | ... | ... | ... | ... | ... | ... | 22 | 19 | 3 | 1 | 1 | ... |
| Chitaldroog | ... | ... | ... | ... | 9 | 9 | 3 | 3 | 10 | 10 | 15 | 15 |
| TOTAL | 67 | 45 | 179 | 109 | 105 | 84 | 118 | 63 | 89 | 60 | 232 | 180 |
| Coorg | ... | ... | 12 | 10 | 4 | 3 | 6 | 5 | 6 | 6 | 2 | 1 |

JUDICIAL COMMISSIONER'S OFFICE,
BANGALORE;
*The 1st July 1878.*

J. D. SANDFORD,
*Judicial Commissioner.*

From the Officiating Secretary for Berar to Resident at Hyderabad, to the Secretary to the Government of India, Home Department,—No. 3, dated Hyderabad Residency, 10th April 1878.

With reference to your letter No. 3-227 dated 16th February last, calling for a report on the working in Berar of the law, contained in chapter 38 of the Criminal Procedure Code, under which persons are required to furnish security for their good behaviour, the Resident has the honour to submit the same as follows for the information of His Excellency the Viceroy and Governor General in Council.

The returns of such cases for the past three years are as here entered :—

| Year. | No. of persons arrested. | No. of persons discharged. | No. of persons from whom security was demanded. | No. of persons imprisoned in default of security. |
|---|---|---|---|---|
| 1875 . . . | 144 | 42 | 102 | 60 |
| 1876 . . . | 122 | 40 | 82 | 40 |
| 1877 . . . | 92 | 33 | 59 | 32 |
| Total in 3 years ... | 358 | 115 | 243 | 132 |
| Average of 3 years | 119 | 38 | 81 | 44 |

During these three years an average of 32 per cent. of the men brought up by the police under the provisions of chapter 38 were discharged by the Magistrates, and of those from whom security was demanded an average of 54 per cent. failed to furnish it, and were imprisoned in default.

The Commissioner, Judicial Commissioner, and Inspector-General of Police, whom the Resident has consulted on this subject, are unanimously of opinion that the law in question has not been abused in Berar. The Resident himself sees no reason to think otherwise, and the above figures certainly appear to support this view of the matter, in so far as they indicate that the provisions of the law have been applied with fair consideration, while the action of the police in connection with them has undoubtedly been subjected to considerable control.

2. On the general question under reference, Sir R. Meade considers that the law under which security can be demanded for the good behaviour of suspected persons is most useful if it is fairly and considerately applied, but to prevent any tendency to abuse of it, he is in favour of permitting a right of appeal to the Sessions Court, and this is also the view of the officers referred to above.

The Commissioner, in alluding to this point, advocates that, in addition to a right of appeal by the accused party to the Sessions Court, there should also, on the other side, be permitted to the police a right of appeal to that Court against acquittals in cases which they have prosecuted.

His ground for suggesting such a measure is stated to be "to secure uniformity of practice in the application of a provision of law which leaves very much to a Magistrate's *discretion*, and regarding which Magistrates very generally hold views which conflict with each other and with the intention of the Legislature. One Magistrate is too easily convinced that the person brought before him is a bad character. Another disapproves of sections 504 and 505 altogether, and can scarcely be induced, whatever the evidence be, to apply them. In dealing with charges of specific crimes, Magistrates of experience generally take pretty much the same view as to the amount of evidence required for conviction, but in applying sections 504 and 505—sections which leave everything to their discretion—preconceived opinions and difference of idiosyncrasy come into play and lead one Magistrate to err in one direction and one in another. The unrestricted power of appeal can alone cure this evil."

The Resident does not doubt that there is much abstract truth in what is thus stated by the Commissioner in support of his argument, but he is unable to agree with him in the proposed remedy. Were the right of appeal allowed to the police in such cases, the recourse to it would probably lead to ill feeling between the magistracy and police, and give to the former's proceeding in such cases an uncertainty and want of finality which is very undesirable. It has also to be borne in view that an order refusing to demand security from a suspected person has not the force of an acquittal, and the police are not barred by it from taking up the case, where practicable, before another Magistrate, or to the same Magistrate when they have procured more convincing evidence against the accused.

3. The Commissioner further suggests an amendment to section 510 providing for the committal to prison of a person who has failed to furnish security "for such period as in the opinion of the Magistrate will be sufficient to make him *do his utmost* to furnish such security." Mr. Jones is opposed to the present rule which keeps a man in prison for the whole term for which security has been demanded as illogi-

cal, and at the same time imposing upon Government a very heavy expense.

But the Resident does not think this suggestion a practical one. The accused under the existing rule is directed to find security and is imprisoned until he does so, or for a specified term. The proposed amendment would not alter his position *in fact* at all, and no change on this head appears necessary.

4. The Inspector-General of Police thinks that the law, far from being abused in Berar, might with advantage be more frequently applied if Magistrates would enquire into such cases in the villages where the accused live. He is not in favour of putting the law in force against men who have been convicted on several occasions, but thinks it should chiefly be employed against those who are known to be bad characters, but whom the police fail to detect in the committal of crime. He also suggests that a person should be allowed some time to furnish security before he is sent to prison, or, if possible that he should receive timely notice of a prosecution about to be instituted against him. This, however, the Resident considers is a matter already in the hands of the magistracy, who can, when such appears proper, defer passing final orders to admit of security being furnished.

5. In conclusion, although the Resident has no reason to suppose that the law relating to security for good behaviour has been misapplied in Berar, he has no doubt that the attention which has now been drawn to the subject will do good and lead to more care in its application in future.

From the Officiating Secretary for Berar to Resident at Hyderabad, to the Secretary to the Government of India, Home Department,—No. 8B, dated Hyderabad, 3rd May 1878.

As called for in your office letter No. 512, dated the 25th ultimo, I am directed by the Resident to forward copy of the Circular issued, with his approval, by the Judicial Commissioner, Hyderabad Assigned Districts, regarding the punishment of habitual offenders.

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From Lieutenant-Colonel J. G. Bell, Judicial Commissioner, Hyderabad Assigned Districts, to all Magistrates of Districts, Hyderabad Assigned Districts,—No. 5, dated Akola, 15th February 1878.

From the calendars, as well as from a case which lately came before me, I am inclined to think that Magistrates do not sufficiently attend to

the provisions of the law already existing for the punishment of habitual offenders.

2. I believe the police invariably record in their charge sheets, which accompany accused persons into court, previous convictions against such persons, when these are known to have been obtained.

I beg that you will instruct your Subordinate Magistrates of the 2nd and 3rd classes to send up freely under section 46, Criminal Procedure Code, for enhanced punishment, the proceedings in cases where the accused may have been once previously convicted under chapters 12 and 17 of the Indian Penal Code.

In cases where there may have been recorded two or more previous convictions against offenders under those same chapters of the Penal Code, Magistrates of all grades should be directed to proceed under section 315 of the Criminal Procedure Code, and send up such persons as habitual offenders to be dealt with by the Magistrate of the District under section 75, Indian Penal Code.

3. In proceeding under section 46, Criminal Procedure Code, the whole of the trial, up to the finding included, you will notice, can be held by the Subordinate Magistrate; while under section 315, Criminal Procedure Code, as soon as the Magistrate finds that the accused has been already convicted twice or oftener under chapters 12 or 17 of the Indian Penal Code, he will stay proceedings under section 221, Criminal Procedure Code, and send the case to the Deputy Commissioner to be dealt with under section 36, Criminal Procedure Code.

4. These instructions are not intended to deprive Magistrates of all grades from using their own discretion in sending up cases under the sections quoted. They are merely intended to draw attention to the provisions of the law for the punishment of habitual offenders, and each case should be dealt with according to the circumstances by which it is surrounded, the object being to prevent, as far as possible, habitual offenders from preying upon their neighbours.

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# SELECTIONS

FROM THE

# Records of the Government of India,

## HOME, REVENUE, AND AGRICULTURAL DEPARTMENT.

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No. CLXX.

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# PAPERS

ON THE

## WORKING OF THE LAW CONTAINED IN CHAPTER XXXVIII OF THE CRIMINAL PROCEDURE CODE UNDER WHICH PERSONS ARE REQUIRED TO FURNISH SECURITY FOR THEIR GOOD BEHAVIOUR.

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